



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: PEMBERTON, ET AL.

Serial No.: 10/734,461

Filed: 12/12/2003

For: METHOD AND DEVICE FOR PREVENTING PETS FROM CLAWING
HOME FURNISHINGS

Examiner: Mark A. Osele

Art Unit: 1791

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
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Sir:

APPEAL BRIEF

This is an appeal from the decision of the Primary Examiner in the Final Rejection dated December 27, 2007, finally rejecting claims 1-3. This Appeal Brief is accompanied by a check in the amount of \$235.00, (\$255 for the statutory fee for filing an Appeal Brief for a small entity less the previously paid \$250 statutory fee for filing an Appeal Brief for a small entity submitted on March 14, 2007 plus \$230.00 for extension of time for filing the Appeal Brief within the second month). The Commissioner is hereby authorized to charge any additional fee due in connection with the filing of this paper or credit any overpayment to the Schultz & Associates,

P.C. Deposit Account No. 50-2225.

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255.00 OP

Real Party in Interest

The real party in interest is Bonnie Pemberton.

Related Appeals and Interferences

1. An Appeal Brief for the present Application (Application No. 10/734,461) was previously filed on March 14, 2007. Prosecution was reopened in a non-final Office Action mailed on May 24, 2007.

2. Application No. 11/084,540 is a commonly owned application having common subject matter. An Appeal Brief for Application No. 11/084,540 was filed on April 12, 2007. Prosecution was reopened in a non-final Office Action mailed on July 16, 2007.

Status of Claims

The claims pending in this application are 1 – 3. Claims 4 – 6 and 16 – 48 have been canceled. Claims 7 – 15 have been withdrawn from consideration. Claims 1 – 3 are appealed and are reproduced in the Claims Appendix. No claim is allowed.

Status of Amendments

No Amendment has been filed subsequent to the Final Rejection dated December 27, 2007.

Summary of the Claimed Subject Matter

The invention called for in the claims on appeal involves a device for deterring pets from scratching fabric of home furnishings (Independent claim 1) having strips with a first adhesive surface and a second adhesive surface, a transfer sheet, and a release layer. Each of the strips has a length substantially greater than its width and is arranged side-by-side on the transfer sheet (§13, sentences 1-2, Ref. No. 13 of Figures 1 and 3). The strips have a first and a second adhesive surface on opposite sides (§13, sentence 4, Ref. Nos. 23 and 25 of Figure 2). The strips are releasably adhered to the transfer sheet on the first adhesive surface (§13, sentence 7). The release layers are releasably adhered to the second adhesive surface of the strips (§13, sentences 9 and 10) and are bisected along an axis parallel to the length of the strip (§13, sentence 11, Ref. No. 29 of Figure 1).

The strips are removed from the transfer sheet (§14, sentence 1) and releasably adhered to a home furnishing (§14, sentences 3 and 4). Once the strips are in place, the release layers are removed to reveal an adhesive surface (§14, sentence 6, and Figure 3) of sufficient tack strength to cause a releasable sticking sensation (§14, sentence 9).

Grounds of Rejection to be Reviewed on Appeal

The grounds of rejection presented are:

1. Claims 1 – 3 as unpatentable under 35 U.S.C. 103(a) over the patent to *Straub* in view of *Ferraro*, *Kriozere*, and *Ittershagen et al.*

Appellants' Arguments

The final rejection includes one rejection under 35 U.S.C. 103(a).

The rejection of claims 1 - 3 as unpatentable under 35 USC 103(a) over U.S. Patent No. 4,824,702 to *Straub* in view of U.S. Patent No. 4,511,608 to *Ferraro*, U.S. Patent No. 4,348,440 to *Kriozere*, and U.S. Patent No. 5,168,831 to *Ittershagen et al.*

With respect to the rejection of claims 1-3 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,824,702 to *Straub* in view of U.S. Patent No. 4,511,608 to *Ferraro*, U.S. Patent No. 4,348,440 to *Kriozere*, and U.S. Patent No. 5,168,831 to *Ittershagen et al.*, Appellants respectfully suggest that these claims are patentable and not obvious in view of the above references.

The Supreme Court in *KSR Int'l V. Teleflex, Inc.*, 127 S.Ct. 1727, 82 U.S.P.Q. 2d 1385 (2007) stated that the key to supporting any rejection under 35 U.S.C. §103 is the clear articulation of the reason(s) why the claimed invention would have been obvious and further noted that the analysis supporting a rejection under 35 U.S.C §103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F3rd 977, 78 U.S.P.Q. 1329 (Fed. Cir. 2006).

The Supreme Court in *KSR* identified a number of rationales to support a conclusion of obviousness which are consistent with the proper "functional approach" to the determination of obviousness as laid down in *Graham v. John Deere Co.*, 383 U.S. 1 (1966). These rationales include:

- A. Combining prior art elements according to known methods to yield predictable results;

- B. Simple substitution of one known element for another to obtain predictable results;
- C. Use of known technique to improve similar devices (methods, or products) in the same way;
- D. Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;
- E. “Obvious to try” – choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success;
- F. Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations are predictable to one of ordinary skill in the art; and,
- G. Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention.

In combining the *Straub*, *Ferraro*, *Kriozere*, and *Ittershagen* references, the Office Action appears to adopt the “G” rationale by arguing that some teaching, suggestion or motivation in the prior art would have led one of ordinary skill to modify some combination of the prior art references or combine them to arrive at the claimed invention.

Under the teaching, suggestion, motivation rationale, it is necessary to ascertain whether the prior art teachings would appear to be sufficient to one of ordinary skill in the art to suggest making the claimed substitution or other modification. *In re Lalau*, 747 F.2d 703, 223 U.S.P.Q. 1257, 1258 (Fed. Cir. 1984).

A factor cutting against a finding of motivation to combine or modify the prior art is when the prior art teaches away from the claimed combination. A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from

following the path set out in the reference, or would be led in a direction divergent from the path that the applicant took. *In re Gurley*, 27 F.3d 551, 31 U.S.P.Q. 2d 1130, 1131 (Fed. Cir. 1994).

When the Office Action proposes a combination that makes a prior art reference inoperable for its intended purpose, that prior art reference may be considered to teach away from the proposed combination, that is, not to teach the combination, thereby supporting a showing of non-obviousness. *In re Gordon*, 733 F.2d 900, 902, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984) (Finding no suggestion to modify a prior art reference with a modification which would render the device inoperable for its intended purpose). The Federal Circuit has provided guidance on this point as follows:

We have noted elsewhere, as a ‘useful general rule’, that references that teach away cannot serve to create a *prima facie* case of obviousness....if references taken in combination will produce a ‘seemingly inoperable device’, we have held that such references teach away from the combination and thus cannot serve as predicates for *prima facie* case of obviousness.” *McGinley v. Franklin Sports, Inc.* 262 F.3d 1339, 60 U.S.P.Q. 2d 1001, 1010 (Fed. Cir. 2001).

Furthermore, it is not enough for the Office Action to present references that contain the assorted features of the invention. The Office Action must also state explicitly why it would appear that the references would have been combined. *See, In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q. 2d 1780, 1783 (Fed. Cir. 1992) (The examiner can satisfy this burden only by showing some objective teaching in the prior art or that some knowledge generally available to one of ordinary skill in the art would lead the individual to combine the relevant teachings of the references).

A further indication of a potentially defective obviousness rejection is the inclusion of separate references to represent each of the different features that are described in the claims of the application. In this situation, many times the claimed invention has been used as an “instruction manual” to piece together prior art that might render the claims obvious. In this

process the examiner has lost sight of the real issue that is, whether it would have been obvious to combine the references without having access to the application that is under examination to arrive at the claimed invention. *See, e.g., Ex Parte Crawford, et al.*, Appeal No. 20062 429, *decided* May 30, 2007; *see also, Lear Siegler, Inc. v. Aeroquip Corp.*, 733 F.2d 881, 221 U.S.P.Q. 1025, 1033 (5th Cir. 1984). It is impermissible for the Office Action to use the application itself as the basis or reason for formulating the obviousness rejection. As worded by the Federal Circuit:

It is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This Court has previously stated that "one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention" *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2D 1780, 1784 (Fed. Cir. 1992).

Furthermore, the Federal Circuit has stated:

Most if not all inventions arise from a combination of old elements. Thus every element of a claimed invention may often be found in the prior art. However, identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention. Rather to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion, or teaching of the desirability of making the specific combination that was made by the applicant. *In re Kotzab*, 217 F.3d 1365, 55 U.S.P.Q. 2d 1313, 1317 (Fed. Cir. 2000).

Finally, the Supreme Court has indicated that "common sense" should be observed in the determination of obviousness. *KSR* 127 S. Ct. at 1727, 82 U.S.P.Q. 2s at 1397. The BPAI has further instructed that obviousness must be judged from the perspective of an artisan exercising common sense to combine the teachings of numerous references. *See, Ex Parte Green*, Appeal 2007 1271, *decided* June 12, 2007; *also see, Ex Parte Rinkevich, et al.*, Appeal 2007 1317, *decided* May 29, 2007.

It is respectfully submitted that the Office Action does not make out a prima facie case of obviousness because the examiner has not presented articulated reasoning with rational underpinnings why the invention would have been obvious; the references cited, either alone or in combination, do not disclose all the elements of the claims nor would it have been obvious to one reasonably skilled in the art how to achieve the structure and advantages of Appellant's claimed invention; there is insufficient suggestion or motivation to combine the references and the references teach away from the combination; and the Examiner has used impermissible hindsight to use the claimed invention as an instruction manual to piece together the teachings of the prior art so that the claimed invention is rendered obvious.

1. The Office Action has not Presented Articulated Reasoning with Rational Underpinnings as to why the Invention would have been Obvious

Straub discloses a method and apparatus for producing sheets of adhesive labels wherein a die cut top liner material extends beyond the areas of the adhesive to form a lip around the perimeter of the adhesive areas. *See, Straub* col. 2, lines 52 – 54. The essential feature of the *Straub* device is that the top liner material *includes a lip extending beyond the areas of the adhesive* so that in the manufacturing process, the die cut does not come in contact with the adhesive material. *See, Straub* col. 2, lines 55 – 58. Figure 4 of the *Straub* reference is shown below and is representative of the invention disclosed:

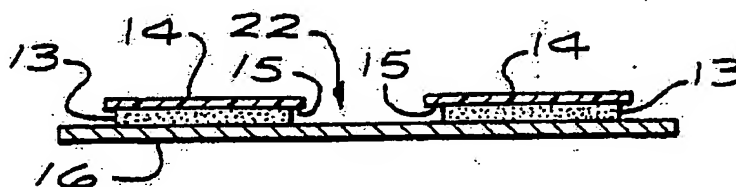


Figure 4

Ferraro discloses a method and apparatus for mounting and reinforcing artificial fingernails using a commercially available double sided tape. See, *Ferraro* col. 2, lines 20 – 57. The essential features of the *Ferraro* device are that the tabs of double-sided, pressure sensitive adhesive material are dimensioned for providing a quick and easy way for mounting an artificial fingernail to a natural nail and the embossed line for ease of removal of the cover sheet. See, *Ferraro* col. 1, lines 49 – 56. Figure 6 of the reference, shown below, is helpful in visualizing the invention disclosed:

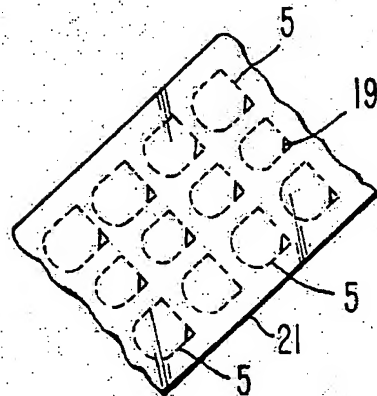


Figure 6

The Office Action advances the argument that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the “equivalent length, bisected release layers” of *Ferraro* in the “article” of *Straub* because “they” are shown to be “functionally equivalent alternate expedients”. But this argument is both inarticulate and inaccurate.

The argument is inarticulate because it is ambiguous with respect to the use of the term “they”. On the one hand “they” could mean the release layers of *Ferraro* (including presumably the “protective layer” shown at ¶ 14 Figure 3 of the reference) and *Straub*. On the other hand,

the term “they” could mean the “article” of *Straub* and the “article” of *Ferraro* including all the layers and all the adhesive strips. The ambiguity cannot be resolved.

The argument is inaccurate for at least three reasons. First, the Office Action presumably asserts that the “release layers” of *Ferraro* are a functionally equivalent alternate expedient to the entire “article” of *Straub*. The Office Action admits that the essential feature of the *Straub* device is the fact that the top liner is indeed *not the same length* as the adhesive strips so as to not complicate the die cutting process. See, Office Action page 5 line 11. Conversely, the *Ferraro* device *requires that the top layer be the same length* as the adhesive layers in order to present a layered product as shown in Figures 5, 6, and 7 of the reference. The devices are not structural equivalents. Therefore, to state that the release layers of *Ferraro* are equivalent alternate expedients for the article of *Straub* is incorrect.

Secondly, the release layers of *Straub* and *Ferraro* are not “functional equivalents” because they simply function differently. The release layer of *Ferraro* is removed by bending an embossed corner up and then grasping it. The release layer of *Straub* is removed by lifting an exposed edge of the release layer.

Thirdly, the argument of the Office Action is inaccurate because the release layers of *Ferraro* are not “bisected”. The Office Action asserts at page 3 line 9 that *Ferraro* discusses a “bisected” release layer. But, “bisected” as used by Appellant means “cut in two equal pieces”. Neither *Ferraro* nor *Straub* discloses or suggests such a bisected release layer. *Ferraro* only discloses an embossed line 19 across a corner of the release layer. *Straub* discusses no bisected release layer and discloses no similar structure.

2. The References Alone or in Combination do not Disclose all the Elements of the Claimed Invention

The *Krizere* reference discloses a face stock 12 having an adhesive face 14 divided into two different sections by fold perforation 22 to create a pressure sensitive seal to enclose the open end of a sterilized pouch. The adhesive face is covered by two liners 16 and 18. Parting line 20 is a cut that separates liner 16 from liner 18. Once both liners are removed, the adhesive face is folded upon itself along fold perforation 22 to seal the open end of the sterilized pouch. The essential feature of the *Krizere* reference is the “adhesive to adhesive” contact around the open end of a sterilized pouch ensuring that no contamination will reach the pouch interior. *See, Krizere* at col. 1, lns. 53-61. The *Krizere* reference discloses only a single sided tape. Once sealed, there is no exposed adhesive side so that the pouch is suitable for mailing or transportation. Figure 1 from the reference provides a representative example:

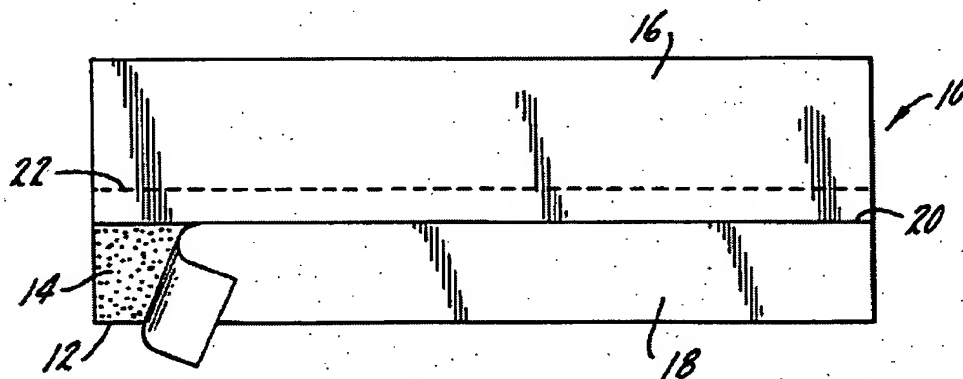


Figure 1

The references alone or in combination do not disclose release layers being *completely bisected* as claimed by Appellants. The common meaning of “Bisected”– “To cut or divide into two parts, especially two equal parts.” *See, Dictionary.com, <http://dictionary.reference.com/browse/bisected>*, attached as Exhibit 1. Further, Applicant has used the term “bisect” to mean

“cut into two equal pieces”. See for example Figure 2 at number 29 and page 5 line 14 of the specification.

The Office Action admits that *Straub*, and *Ferraro*, do not show a bisecting cut at page 5, lines 2-6.

Furthermore, *Kriozere* does not show a bisecting cut. Rather *Kriozere* discloses that the feature at reference number 20 is a parting line that cuts and separates liner 16 from liner 18 but is not “bisecting”. A significant feature of the *Kriozere* device is that the fold perforation 22 be spaced from the parting line 20. See, *Kriozere* col. 2, lines 9-11. Fold perforation 22 must be “centrally located.” See, *Kriozere* col. 2, lines 7-8. However, since fold perforation 22 is “centrally located” and parting line 20 must be spaced from fold perforation 22, then parting line 20 cannot be “centrally located” and thus cannot “bisect” the release layers as advanced by the Office Action.

There is a practical reason that the *Kriozere* reference does not show a completely bisected release layer nor is such a feature suggested. The strip of *Kriozere* must be folded along its center line back upon itself to form an adhesive seal along a central perforated line (See column 2 lines 13-14). Furthermore, and importantly, the perforated line must be centrally located so that the adhesive strip folds evenly to leave no adhesive exposed at the bottom of the adhesive strip when the pouch is closed. Hence, the cut between the release sheets cannot be located at the same central line.

Since there is no “completely bisecting” cut as claimed by Appellant disclosed or suggested, the combined references do not provide all the required limitations set out in Claim 1. Therefore, the combination of *Straub*, *Ferraro*, and *Kriozere* fail to adequately support a *prima facie* case of obviousness.

3. There is Insufficient Suggestion or Motivation to Combine the References and the References Teach Away from the Combination

The Combination of *Straub* and *Ferraro*

Ferraro teaches away from the combination with *Straub*. Tab 14 of *Straub* includes lip 15 which is slightly larger than its respective adhesive area. See, *Straub* Figures 2, 4 and 8. By contrast, the protective layers 9 and 13 completely cover the adhesive area 11 of the *Ferraro* device. See, *Ferraro* col. 2, lines 52-54 and Figure 2. At page 3, lines 5-6 of the Office Action, the Office Action observes that *Ferraro* is an example of prior art where release layers are substantially the same length as each of the strips. However, the release layers of *Straub* are not the same length as the strips and cannot be. An important aspect of the *Straub* device is that the lip extends past the adhesives so that the adhesive will not be cut during the die cut operation. See, *Straub* col. 2, lines 53 – 57 and Figures 1 and 4. One skilled in the art would not look to combine the protective release layers of *Ferraro* in the article of *Straub* because then the die cut operation would include cutting the adhesive; a problem that the *Straub* device was designed to avoid.

There is no motivation to combine *Ferraro* with *Straub*. The Office Action advances the argument that the adhesive devices of *Ferraro* and *Straub* are “functionally equivalent alternate expedients.” See, Office Action page 3, lines 9 – 10. Functionally equivalent alternate expedients are devices that accomplish the same thing. But the devices do not accomplish the same thing. *Ferraro* allows easy removal of the tabs by a bending of one corner. *Straub* allows easy removal of the tabs by an extended cover sheet. One of ordinary skill in the art would not combine two inventions with different features that accomplish the same goal because it is not

common sense. Rather, he would choose one or the other to meet his need, not both. A person of ordinary skill in the art having common sense at the time of the invention would not reasonably look to one reference to solve a problem already solved by another. *See, Ex Parte Rinkevich, et al.*, BPAI 20071317.

The Combination of *Kriozere* with the article of *Straub* in view of *Ferraro*

The Office Action advances the argument that it would have been obvious to one of ordinary skill in the art at the time the invention was made to make a central slit in the release sheets of the rectangular, double-sided adhesive elements of the references as combined because *Kriozere* shows that a slit along the longitudinal axis allows for “alignment” of a rectangular article. This is not an accurate description of the *Kriozere* reference. The “slit along the central longitudinal axis” referred to by the Office Action is parting line 20. Alignment (or “positioning”) is not the stated or designed purpose of parting line 20. The “positioning” referred to by the *Kriozere* reference is the positioning of the fold line 22 with respect to the open end of the pouch to be sealed 24. In fact, the positioning of fold line 22 is critical with respect to the open end of the pouch – not the positioning of parting line 20. Parting line 20 is to be spaced from fold perforation 22 so that when backing strip 18 is removed, fold perforation 22 (and its adhesive) will not be exposed or uncovered. *See, Kriozere* col. 2, lines 10-13. The primary goal of the *Kriozere* seal is to attain adhesive to adhesive contact when sealing the open end of a sterilized pouch. If the fold perforation 22 is positioned properly, then when the face stock is folded upon itself, an adhesive to adhesive bond will be made covering the top of the pouch. *See, Kriozere* col. 2, lines 53-61. It would not have been obvious to one of ordinary skill in the

art at the time the invention was made to make a central slit in the release sheets of the adhesive tabs of the references as combined because *Kriozere*, does not show use of the slit for alignment.

Furthermore, neither *Straub* nor *Ferraro* show use of a fold line or a cut line for positioning the adhesive tab. Indeed, positioning with a fold line or cut line would be impractical. The size of the tabs disclosed by *Ferraro* and *Straub* are very small – placing two or more release layers on each tab would make the problem of removing the release layer doubly difficult. So, the combination suggested by the Office Action would eliminate a main advantage of both *Straub* and *Ferraro* namely easy removal of the cover sheet.

It is further submitted that there is insufficient suggestion or motivation to combine the article of *Straub* in view of *Ferraro* and *Kriozere* because the references address different problems.

A general relationship in the fields of prior art references to be combined is insufficient suggestion or motivation. *Interactive Techs., Inc. v. Pitway Corp.*, Civ. App. No. 98-1464, Slip Op. at 13, (Fed. Cir. G1 1999) (Unpublished), *cert denied* 528 U.S. 1046 (1999). The motivation or suggestion must be more closely targeted to the invention than a mere general relationship between the prior art and the invention of applicant. *See, In re Alhamad*, Civ. App. 97-1345 (Fed. Cir. Dec. 18, 1997) (Unpublished) (Holding that a general relationship between strength reinforcing was not sufficient suggestion of a fire resistance goal of the invention). An invention made from a combination of old elements is not obvious if the old elements typically deal with different problems. *Lindermann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 Fed. 2d 1452, 221 U.S.P.Q. 41 (Fed. Cir. 1984) (Holding that an invention combining a single process to process light and heavy gauge metal scrap objects nonobvious for combining two

difference known features in a single device when the known features solved different problems).

On the one hand, the invention of *Straub* is a manufacturing process for creating transfer adhesive sheet material used to affix articles such as artificial fingernails and decorative stickers. Likewise, *Ferraro* discloses an artificial nail mounting and reinforcement method. On the other hand, *Kriozere* deals with a different problem and discloses a pressure sensitive seal for sealing the open end of a sterilized pouch used for medical purposes. Nothing more than the general relationship exists between adhesives strips for false fingernails and adhesive strips for sealing medical pouches. Without more there is not sufficient suggestion or motivation to combine them. The adhesive tabs of *Straub* and *Ferraro* are double sided, the adhesive area of *Kriozere* is purposely one sided. The adhesives of *Straub* and *Ferraro* are designed such that the adhesive is releasable so that the false fingernail can be removed. The *Kriozere* adhesive surface, when folded upon itself, is purposely designed to be secured indefinitely to seal out contaminants of sterilized medical supplies and would be considered a failure if it were to be releasable.

Because the two types of inventions are for very different uses and are very different structures it is respectfully submitted that there is insufficient motivation or suggestion to combine *Kriozere* with the article of *Straub* in view of *Ferraro*.

The Combination of *Ittershagen* with the article of *Straub* in view of *Ferraro* in further view of *Kriozere*

The addition of *Ittershagen* does not cure the deficiencies of the combination of *Kriozere* with the article of *Straub* in view of *Ferraro*.

The *Ittershagen* reference discloses a single wide sheet of transparent flexible material covered on one side with an adhesive substance and on the other side with a protective backing.

See *Ittershagen*, col. 3, lines 1-12 and lines 38 – 41. *Ittershagen* also discloses that the top layer consists of a stronger adhesive than the bottom layer and further provides two separate adhesive products for the top and bottom adhesive layers. See, *Ittershagen*, col. 3, lines 20 – 39. The *Ittershagen* device is manufactured on a roll for ease of storage and transportation. See, *Ittershagen*, col. 3, lines 42 – 45 and Figure 2. The weaker adhesive is oriented downward (toward the floor) and the stronger adhesive is oriented upward. See, *Ittershagen*, col. 3, lines 21 – 22. A representative figure is provided by the reference in Figure 2 shown below:

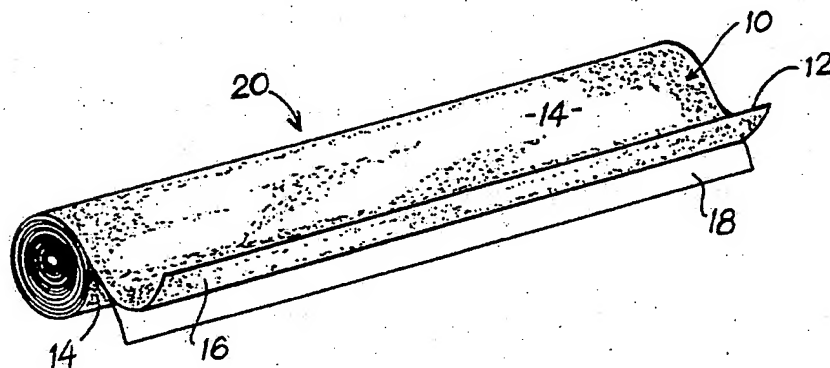


Figure 2

First, *Ittershagen* does not disclose a release layer having a bisecting cut. In fact, protective backing 18 is not disclosed to be cut at all. Therefore, even with the addition of *Ittershagen*, since there is no “bisecting” cut as claimed by Appellant, the combined references still do not provide all the required limitations set out in claim 1 and therefore fail to support a *prima facie* case of obviousness.

Second, no more than a mere general relationship exists between *Ittershagen* and any of the other combined references. The purpose of each of the prior references is to adhere one object to another object for some period of time. However, the goal of *Ittershagen* is to deter a pet from entering a specific area by providing an adhesive surface designed to not adhere, but to release an object (a pet). Also, the problems being solved by the references are not even

generally related. The adhesive strips of *Straub* and *Ferraro* used to secure fingernails are in no way related to a contaminate blocking pressure seal (*Kriozere*) or a pet deterrent sheet (*Ittershagen*). They solve problems unrelated to each other. An inventor using common sense would not look to these differing inventions to solve the problems faced by Appellant.

Third, Applicant respectfully submits that the references cannot be properly combined with *Ittershagen* because the references themselves teach away from the combination. Proper motivation to combine references requires that the combination be desirable, not merely possible. *Winner International Royalty Corp. v. Wang*, 202 F.3d 1340, 53 U.S.P.Q. 2d 1580 (Fed. Cir. 2000), *cert denied*, 530 U.S. 1238 (2000) (One of ordinary skill in the art would not have reasonably elected to trade one feature of security versus another of convenience and therefore, the invention was not obvious). An invention is not obvious where one prior art reference teaches away from combination with a second or other prior art references. *In re Rudko*, Civ. App. No. 98-1505 (Fed. Cir. May 14, 1999)(Unpublished).

The Office Action advances the argument that it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the double-sided adhesive element of the references as combined with different tack strength(s) to releasably adhere to an animal because *Ittershagen* teaches the benefits of these adhesive materials. However, the “benefits” of the adhesive materials would not have been useful in the inventions of *Ferraro* or *Straub* and indeed would have caused them to be inoperative.

First, *Ittershagen* teaches the use of a single release sheet (called “intermediate backing material”) rolled in such a fashion with an adhesive sheet so as to cover both sides. This consequently is an advantage because it eliminates the necessity of two release sheets on either side of the adhesive sheet as taught by *Ferraro* and *Straub*. Such a teaching would lead one of

skill in the art away from the combination because both *Ferraro* and *Straub* require two release sheets.

Second, the devices of *Straub* and *Ferraro* would not function with the release adhesive of *Ittershagen* and so one of skill in the art would not make such a combination. The *Ferraro* reference discloses an adhesive tab for adhering a fingernail to a finger. Similarly, the *Straub* reference describes adhering a false fingernail to a finger, creating decorative stickers, and using the invention as a lint remover. The examples disclosed in the references would be inoperable, if the adhesive had different degrees of tack strength. For example, with different tack strengths, one side of the false fingernail would not be securely adhered to the finger. Either the false fingernail would be released from the adhesive surface, or the false fingernail would be released from the finger. Similarly, the decorative sticker would not adhere to its desired location, and the lint remover would not function to hold lint. The results of the proposed combination defeat the intended purpose of each of the references.

Claims 2 and 3.

With respect to claims 2 and 3, the Office Action states that *Straub* shows the strips are uniformly spaced apart from one another by gaps on the transfer sheet that are parallel to the length of the strips and are of a width that is equal to a substantial fraction of the width of the strips to provide an indication of an edge of the plurality of the strips. As pointed out above, there is insufficient motivation or suggestion to one of ordinary skill in the art to combine the article of *Straub* with the equivalent length bisected release layers of *Ferraro* with the slit along the central longitudinal axis of *Kriozere* with the releasable tack strength of *Ittershagen*. Furthermore, the references themselves teach away from the combination. For the same reasons,

the rejections under § 103 as to claims 2 and 3 also lack sufficient explicit explanation to support the rejections and do not provide all the required limitations required by claims 2 – 3.

Appellants Have Submitted Convincing Declarations and Other Evidence of Secondary Considerations of Non-Obviousness Sufficient to Overcome the Obviousness Rejections.

The presentation of evidence of secondary considerations is often the key to overcoming an obviousness rejection. For example, the Federal Circuit has held that

Evidence of secondary considerations may often be the most probative and cogent evidence in the record. It may often establish that an invention appearing to have been obvious in light of the prior art was not. It is to be considered as part of all the evidence, not just when the decision maker remains in doubt after reviewing all the art. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 1538-40, 218 U.S.P.Q. 871, 879 (Fed. Cir. 1983).

In a crowded field, such as that presented by the prior art in this case, small differences may make all the difference as to non-obviousness. For example, the Federal Circuit recognized this principle as follows:

Thus when differences that may appear technologically minor nonetheless have a practical impact, particularly in a crowded field, the decision-maker must consider the obviousness of the new structure in this light. Such objective indicia as commercial success, or filling an existing need, illuminate the technological and commercial environment of the inventor, and aid in understanding the state of the art at the time the invention was made. *Continental Can Co. USA v. Monsanto Co.*, 948 F.2d 1264, 20 U.S.P.Q. 2d 1746, 1752 (Fed. Cir. 1991).

When evidence of secondary consideration exists, it is always to be considered, not merely when the Examiner remains in doubt after reviewing all the prior art. *Cable Elec. Prods., Inc. v. Genmark, Inc.*, 770 F.2d 1015, 226 U.S.P.Q. 887 (Fed. Cir. 1985).

An applicant need not show that all possible embodiments within the claims are successfully commercialized in order to rely on the success of the marketplace of the

embodiment that was commercialized. *Applied Materials, Inc. v. Advance Semiconducting Materials Amc.*, 98 F.3d 1563, 40 U.S.P.Q. 2d 1481, 1486 (Fed. Cir. 1996), *cert denied*, 117 S.Ct. 1822 (1997). The Board has recognized that if the commercial success is due to the merits of the claimed invention, the evidence of nonobviousness is to be accorded substantial weight. *Ex parte Remark*, 15 U.S.P.Q.2d 1498 (B.P.A.I. 1990).

The Federal Circuit has held that a *prima facie* case of nexus is made out when the patentee shows that there is commercial success, and the product or method that is commercially successful is the invention disclosed and claimed in the patent. *Demaco Corp. v. F. von Langsdorf Licensing Ltd.*, 851 F.2d 1387, 7 U.S.P.Q. 2d 1222, 1226 (Fed. Cir. 1988). A patentee is not required to prove as part of its *prima facie* case that the commercial success of the patented invention is not due to factors other than the patented invention. It is sufficient to show that the commercial success was of the patented invention itself. A requirement for proof of the negative of all imaginable contributing factors would be unfairly burdensome, and contrary to the ordinary rules of evidence. *Id.* at 1226-27.

A patent owner's lack of previous experience in a relevant market combined with high sales volume of the product provides an inference of a nexus between a commercial success and the patented invention and are probative evidence of nonobviousness. *Pro-Mold & Toll Co. v. Great Lake Plastics, Inc.*, 75 F.3d 1568, 37 U.S.P.Q. 2d 1626 (Fed. Cir. 1996). The Federal Circuit pointed out specifically in this case that the lack of market power in a field suggests that the novel features of the patented invention led to the commercial success.

Industry recognition is also probative in nonobviousness when related to the claimed invention. *In re Metz*, 173 F.3d 433 (Fed. Cir. 1998) (unpublished).

A combination of commercial success and copying by an infringer provides strong evidence of secondary consideration supporting a decision of nonobviousness. *Heidleberg Harris, Inc. v. Mitsubishi Heavy Industries, Ltd.*, Civ. App. No. 99-1100, 2000 U.S. App. LEXIS 23757, *30 (Fed. Cir. Sept. 18, 2000) (unpublished). If the evidence of copying includes reports indicating that the infringer followed the patentee's design and advertisement, these form an extremely persuasive indication of nonobviousness. *Id.* at *29-*30.

In this case, Appellants provide the Declarations of Bonnie Pemberton, the inventor (attached as Exhibit 2, including Exhibits A-L), and Chris Ruben, a sales executive familiar with the products incorporating the invention (attached as Exhibit 3), which were previously submitted September 6, 2006 in an Amendment and Response to an Office Action of March 6, 2006 as evidence of several secondary considerations that indicate that the invention is not obvious. The Declarations were considered by the Examiner in an Office Action mailed September 25, 2006. Furthermore, Appellants provide the Supplemental Declaration of Bonnie Pemberton (attached as Exhibit 4) which was previously submitted March 12, 2007. The Supplemental Declaration was considered by the Examiner in the appealed from Office Action mailed December 27, 2007.

Ms. Pemberton testifies that from humble beginnings, the product incorporating the claimed invention rose from 0% market share to controlling almost 80% of the market share available. *See*, Declaration of Bonnie Pemberton at ¶8. The Declaration of Mr. Chris Ruben at ¶4 concurs. Ms. Pemberton further testifies that the details of market share, including the approximately size of the market and her percentage of sales. *See*, Declaration of Bonnie Pemberton at ¶¶7-8. She also testifies that her product incorporating the claimed invention was a replacement of the prior art which was greeted well by customers who voiced to her the

advantages of the claimed features, including but not limited to, the features of the multiple layers, the bisected release layer and that the strength of the adhesive is sufficient to cause an unpleasant sticking sensation to pets. *See*, Declaration of Bonnie Pemberton at ¶¶ 9-11.

Additionally, customers have also voiced their opinions on the advantages of the corrugated embodiment; specifically, the corrugated substrate that contains an adhesive on one side and a strip that is releasable adhered to the adhesive. *See*, Declaration of Bonnie Pemberton at ¶11.

The evidence shows that the claimed features responsible for the sales increase as opposed to other potential avenues such as advertising. Specifically, Ms. Pemberton testifies that the company doesn't spend a significant percentage of its budget on advertising and that the success of the product was because of the features. *See*, Declaration of Bonnie Pemberton at ¶14.

Perhaps most telling, Appellants have sold over 1,500,000 packages of its product incorporating the invention since it was introduced in the market. *See*, Declaration of Bonnie Pemberton at ¶6.

Ms. Pemberton goes on to testify that she and her company were relatively inexperienced in the market before the success of the product and that the success of the product again was due to its features, and not her experience. *See*, Declaration of Bonnie Pemberton at ¶12.

The invention has been recognized in the industry with various awards. For example, in 1997 and 2003 the product incorporating the claimed invention won the "Editors Choice" award from Cat Fancy Magazine. Another example is the award for "Excellence" in 1999 from CATsumer Report. Still another example is the receipt of a formal "endorsement" from CATNIP! Newsletter in 1999. A further example is the "Seal of Approval" from the ASPCA in 2000. *See*, Declaration of Bonnie Pemberton at ¶13, Exhibits H, I and J.

The products incorporating the invention have been recommended in award-winning books, including:

- **Complete Kitten Care**, by **Amy D. Shojai**, a nationally known authority on pet care and behavior, a spokesperson for Purina®, and an award-winning author of more than a dozen nonfiction pet books.
- **Kittens for Dummies**, by **Dusty Rainbolt**, a nationally known authority on cat care and behavior, and an award-winning author and a regular contributor to the Whole Cat Journal and City + Country Pets.
- **The Cat Fanciers' Association Complete Cat Book**, by **Mordecai Siegel**, a nationally known, highly-regarded and widely published authority on pet care.
- **Think Like A Cat**, by **Pam Johnson-Bennett**, a Certified Animal Behavior Consultant and clinical member of the International Association of Animal Behavior Consultants. She is the author of a number of award-winning and critically acclaimed books and one of the country's most well-known and popular experts on cat behavior. *See*, Declaration of Bonnie Pemberton at ¶22.

Mr. Ruben testifies also that the claimed features of the invention have been mentioned to him favorably by customers large and small. Specifically, Mr. Ruben sets out that the features claimed in independent claims 1 and 42 among others are responsible for the success of the product. *See*, Declaration of Chris Ruben at ¶¶6-9.

The evidence also shows the nonobviousness of the invention by virtue of the close copying of the invention by at least two competitors. The first competitor is a larger, more well-established company than Appellants' company. *See*, Declaration of Bonnie Pemberton at ¶18, Exhibit D. Mr. Ruben also testifies that the product of the inventor incorporating the elements of the invention and at least one competitor's product move in the same channels of trade and are purchased by the same customers. *See*, Declaration of Chris Ruben at ¶5. For example, with respect to the first competitor, Appellants respectfully direct the attention of the Board to the virtual duplication of the product. The first competitor has copied the size and dimensions including the bisected release layer in its product. Moreover, in order to closely associate the competitive product with the product of Appellants' which incorporates the claimed invention, the first competitor has virtually copied the label and the instruction sheet, presumably in order to lead customers to believe that a competitive product incorporates the features of the claimed

invention. *See*, Declaration of Bonnie Pemberton at ¶19, Exhibits A, D. The Board will also note that the competitive product does incorporate the claimed features of at least claim 1 including multiple layers and the bisected release layer. The instructions of the competitor specifically point out the structure and function of the features of the claimed invention. The first competitor has also used a nontoxic adhesive similar to that claimed by the invention. *See*, Declaration of Bonnie Pemberton at ¶¶18-19, Exhibit C, E, K.

As another example, the second competitor has also copied Appellants' product incorporating the claimed invention. *See*, Declaration of Bonnie Pemberton at ¶¶20-21, Exhibits F, G.

The second competitor not only copies the bisected release layer but the structure of the claimed invention. Moreover, the second competitor adopts similar product packaging and instructions to those of the inventor to leverage the apparent similarity to the claimed invention. *See*, Declaration of Bonnie Pemberton at ¶¶20-21, Exhibits F, G.

In her Supplemental Declaration, Ms. Pemberton addresses additional comments made by the Examiner discounting the evidence in her earlier Declaration.

The Examiner takes the position that the invention was merely replacement of the prior art double sided tape offered by the 3M Company and further that it was merely a repackaging and remarketing of a previous product. Ms. Pemberton testifies that this is not correct at ¶2 of her Supplemental Declaration. Ms. Pemberton goes on at ¶2 to testify that the 3M tape product did not have the features of the invention such as a base release sheet, a bisected top release sheet and was not provided in flat strips. She further testifies that the invention was not a repackaging of the prior art, but was rather substantially different and is a substantial improvement over it.

The Examiner further implies without support that an important factor in determining market success was whether the 3M tape product was sold in pet stores. Ms. Pemberton testifies in ¶3 of her Supplemental Declaration that in fact, the Examiner placed prior art in the file which describes two publications showing that double sided tape, such as the 3M tape product were in fact publicized as a use for a cat deterrent. *Also see, Basic Training for Your Cat*, <http://www.perfectpaws.com./train.html>; *Claws and All: Living With Your Cat, Your Furniture, and Your Peace of Mind*, <http://www.nsus.org/claws.html> filed in support of the Office Action dated September 22, 1998. This evidence of record increases the likelihood that the success of Appellants' invention was not due to merely novel packaging, but rather due to the advantages of the claimed features of the invention.

The Examiner goes on to imply that the resulting rise in sales of Appellants' invention was due to its advertising as a cat deterrent and not because of the claimed features of the invention. Ms. Pemberton testifies on this point that in the years of selling the product, not a single customer has indicated that the product was purchased because of the advertising or packaging and not because of the claimed feature of the invention. Further, she goes on to point out that the declaration of Mr. Chris Ruben, sales agent for the product, indicates that numerous customers have told him that the products were purchased because of the claimed features of the invention.

Finally, the Examiner suggests that the ASPCA seal of approval was given to the Appellants prior to incorporating the features of the invention in exchange for payment. Ms. Pemberton testifies that the ASPCA award is given only after scrutiny for the function of the product and safety to pets and that it is not a quid pro quo for donations received. *See*, Supplemental Declaration of Bonnie Pemberton at ¶4.

Ms. Pemberton testifies that the ASPCA scrutinizes pet related products to ensure claimed functionality and the safety of pets. Ms. Pemberton further testifies that products submitted for the Seal of Approval are reviewed by a panel of ASPCA experts comprised of veterinarians, veterinary toxicologists, animal behaviorists, and animal science specialists nationally renowned in their scientific fields. (*See*, Supplemental Declaration of Bonnie Pemberton at ¶4). Ms. Pemberton further testifies that the ASPCA award is only given after a review of the product for quality and safety (*See*, Supplemental Declaration of Bonnie Pemberton at ¶4), and that it is a bona fide award awarded to the product incorporating the features of the invention.

In the Office Action of December 27, 2007, the Examiner states the Supplemental Declaration of Ms. Bonnie Pemberton does not address the question raised by the Examiner in the Office Action of September 25, 2006 regarding the Declaration of Ms. Bonnie Pemberton. The question being whether the quoted market share of Appellants' products includes all double-sided adhesive tapes, including the rolled adhesive tape of 3-M, or only double-sided adhesive tapes marketed at cat owners for pet scratch prevention. Appellants redirect the attention of the Examiner to Supplemental Declaration of Ms. Bonnie Pemberton ¶3, page 2, lines 10-13 where Ms. Pemberton testifies that in *the market of double-sided adhesive tapes for pet scratch prevention*, Fe-Lines, Inc.'s share of the market has grown from 0% to almost 80% in less than 10 years despite the company spending only a small fraction of its income on advertising (emphasis added). Thus the answer to the question raised by the Examiner in the Office Action of September 25, 2006 regarding the Declaration of Ms. Bonnie Pemberton is the latter or double-sided adhesive tapes marketed at cat owners for pet scratch prevention. Since the market share is determined on only those products directed towards cat owners, then Ms. Pemberton

goes on to testify that the increase in sales is not due to marketing and advertising directed at cat owners, but in fact Ms. Pemberton testifies that she believes the quick rise in market share is because of the elements of the claimed invention being a bisected release layer adjacent a strip having adhesive surfaces on opposite sides adjacent a transfer sheet. (See, Supplemental Declaration of Ms. Bonnie Pemberton ¶3, page 2, lines 15-18).

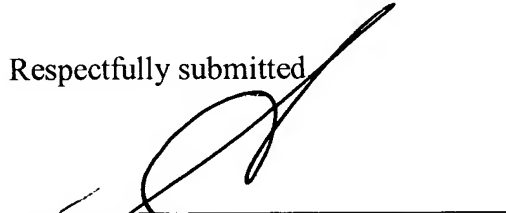
Conclusion

For the reasons set forth above, Appellants respectfully submit that all of the claims at issue are patentable over the prior art under 35 U.S.C. §103. Accordingly, it is respectfully requested that the final rejection of the claims at issue be reversed.

Enclosed is a check in the amount of \$235.00 to cover the fee for the filing of this Appeal Brief. The Commissioner is hereby authorized to charge any additional fee that may be due in connection with this Appeal Brief or to credit any overpayment to Deposit Account No. 50-2225.

Dated: July 14, 2008

Respectfully submitted



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CLAIMS APPENDIX

1. A device for deterring pets from scratching fabric of home furnishings comprising:
 - a continuous, unperforated and generally planar transfer sheet;
 - a plurality of continuous unperforated rectangular strips, each of the strips having a length substantially greater than its width, the strips being arranged side-by-side on the transfer sheet, each of the strips having first and second adhesive surfaces on opposite sides, each of the strips being releasably adhered to the transfer sheet on the first adhesive surface;
 - a plurality of continuous unperforated release layers, each of the release layers being completely bisected along an axis parallel to the length of the strip and each of the release layers having a length substantially the same as the length of each of the strips, each of the release layers releasably adhered on the second adhesive surface of the strips;
 - wherein the strips are adapted to be removed from the transfer sheet and releasably adhered to the home furnishing on the first adhesive surface, and the release layers are adapted to be removed from the second adhesive surface revealing the second adhesive surface; and
 - wherein the first and second adhesive surfaces are formulated from an adhesive of sufficient tack strength to cause a releasable sticking sensation.
2. The device of claim 1 wherein said strips are uniformly spaced apart from one another by gaps on the transfer sheet that are parallel to the length of the strips and are of a width that is equal to a substantial fraction of the width of the strips to provide an indication of

an edge of the plurality of strips and the bisection of the plurality of strips to facilitate manual removal of the strips from the transfer sheet.

3. The device of claim 1 wherein the strips are separated by a side margin indicator means for preventing confusion between a bisection cut in each release layer and a side margin of the strips that has a width that is a significant fraction of the width of the strips.

**EVIDENCE APPENDIX**

Evidence submitted pursuant to 37 CFR §1.130, 1.131, 1.132 relied upon by appellant in this appeal:

Exhibit 1 - Definition of "bisected" from Dictionary.com

Exhibit 2 - Declaration of Bonnie Pemberton, inventor – attached

Exhibit 3 - Declaration of Chris Ruben, a sales executive familiar with the products incorporating the invention – attached

Exhibit 4 - Supplemental Declaration of Bonnie Pemberton, inventor – attached

The definition of "bisected" from Dictionary.com was submitted November 29, 2007 in an Amendment and Response to Office Action of May 24, 2007. The Declarations of Bonnie Pemberton and Chris Ruben were submitted September 6, 2006 in an Amendment and Response to an Office Action of March 6, 2006. The Declarations were considered by the Examiner in an Office Action mailed September 25, 2006. The Supplemental Declaration of Bonnie Pemberton was submitted March 12, 2007. The Supplemental Declaration was considered by the Examiner in an Office Action mailed December 27, 2007.

Evidence relied upon by the Examiner in rejecting the claims:

U.S. Patent No. 4,824,702 to *Straub* – attached

U.S. Patent No. 4,511,608 to *Ferraro* – attached

U.S. Patent No. 4,348,440 to *Kriozere* – attached

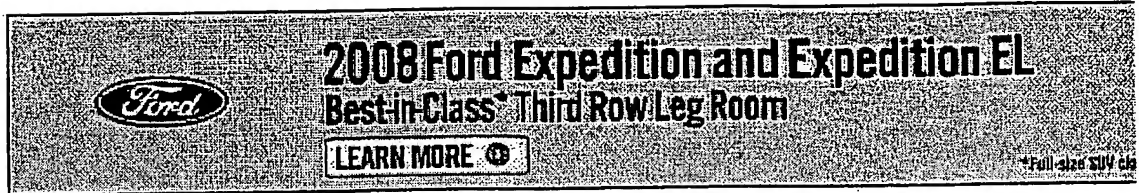
U.S. Patent No. 5,168,831 to *Ittershagen et al.* – attached

EXHIBIT 1



bisected

Dictionary Thesaurus



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bi·sect   (bī'sĕkt', bī-sĕkt') [Pronunciation Key](#)

v. bi·sect·ed, bi·sect·ing, bi·sects

v. *tr.*

To cut or divide into two parts, especially two equal parts.

v. *intr.*

To split; fork.

bi·sec'tion *n.*, bi·sec'tion·al *adj.*, bi·sec'tion·al·ly *adv.*



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Bi
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bisect   (bī'sēkt', bī-sēkt') Pronunciation Key
To cut or divide into two parts, especially two equal parts.

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EXHIBIT 2



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: PEMBERTON ET AL.

Serial No.: 10/734,461

Filed: 12/12/2003

For: "Method and Device for Preventing Pets from Clawing Home Furnishings"

Examiner: Mark A. Osele

Art Unit: 1734

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF BONNIE PEMBERTON

1. My name is Bonnie Pemberton. I am the inventor of the invention disclosed in the above-noted application. I am over 21 years of age, of sound mind and willing and able to make the following Declaration.
2. I am a college graduate, having graduated from Texas Wesleyan University with a degree in business. While I have sold pet products for many years, I am not an expert in the field of plastics, adhesives or adhesive tapes. Moreover, I am not an expert in the field of packaging. I consider myself one of ordinary skill in the art when it comes to the subject matter of the invention disclosed in the application.
3. I have used the invention described in the application as the basis for my business, Fe-Lines, Inc. Fe-Lines, Inc. is a Texas corporation in good standing and has been in business since about 1981.
4. Fe-Lines, Inc. is in the business of selling pet products to distributors and the public. The pet products include many items, but specifically include the invention of the application. The company sells several embodiments of the invention including a "flat" version and a "corrugated" version. The "flat" version incorporates the elements of claim 1 of the patent application among others. The "corrugated" version incorporates the elements of claim 42 of the patent application among others. A copy of a picture of the "flat" version is attached to this Declaration as Exhibit A. A copy of a picture of the "corrugated" version of the invention is

attached as Exhibit B.

5. The invention has been a huge commercial success.

6. For example, Fe-Lines, Inc. began selling the claimed invention in 1996. At the outset, our sales figures began to climb rapidly from \$26,000 in 1996, to \$1 Million in 2005. This equates to a jump in sales of about 3,250 units per year to just over 203,000 per year. Since its inception, the company has sold over 1,500,000 packages of products incorporating the claimed invention.

7. I estimate the size of the market for those particular products to be about \$1,500,000.00 per year. Our percentage of that market or market share I estimate to be approximately 70-80%.

8. Over the years, our market share has grown. With the appearance of similar products, our market share has grown from 0% to almost 80% in less than 10 years.

9. The only prior art that is directly related to my invention that I am aware of is double sided tape offered by 3-M Company. The tape has a different construction. The tape includes a long coiled strip with a "non-sticky" layer on one side. It is very difficult to apply because it comes off the roll with a sticky side and is difficult to handle. It doubles back on itself and the adhesive side tends to come in contact with itself, snarling the application of the product. The advantages of the invention among others prevent this problem by providing bisected release layers which allow the product to be positioned with two non-sticky surfaces before the base layer and release layer are removed. The "two-part" release layer is also helpful in applying the product and is a huge advantage over the prior art.

10. In regards to the "flat embodiment", I have received praise from customers regarding the claimed features of the invention. Specifically, customers have expressed the advantage the combination of the transfer sheet, the strip and "two-part"/bisected release layers has in the ease of application of the invention to furniture and the like. Customers have also expressed adoration regarding the gap between the strips has in aiding in the removal of the strips from the transfer sheet. Additionally customers have disclosed their satisfaction regarding the adhesive's tack strength to easily cause an unpleasant sticking sensation. In my opinion, and based on comments that I received from customers, this claimed feature of the invention and others are the reason for its success.

11. In regards to the "corrugated embodiment" I have received acclaim from consumers regarding some of its features which include a strip (control sheet) with one surface being releasable adhered to a corrugated substrate and the other surface being adhered to a release layer. In my opinion, and based on comments that I received from customers, this claimed feature of the invention and others are the reason for its success. In my opinion, and based on comments that I received from customers, this claimed feature of the invention and others are the reason for its success.

12. Before my company launched a product embodying the elements of the claimed invention, it was relatively inexperienced in the market, and, because of the features of the invention has achieved a large market share.

13. The products sold by Fe-Lines, which incorporate the claimed invention have been the subject of industry recognition and awards. At various trade shows, including the Editors Choice Award from Cat Fancy Magazine in 1997 and 2003 (Exhibit H), the "Excellent" review from CATsumer Report in 1999, a formal "endorsement" from CATNIP! Newsletter in 1999 (Exhibit I), as well as a two-year "Seal of Approval" from the ASPCA in 2000 (Exhibit J). These awards specifically refer to the "Sticky Paws for Plants" and the "Sticky Paws for Furniture". The "Sticky Paws for Plants" is the "corrugated embodiment" of the invention covered by claim 42. The "Sticky Paws for Furniture" is the "flat embodiment" of the invention covered by claim 1.

14. I believe that the relatively quick rise in market share and sales is because of the elements of the claimed invention. For example, the company only spends a small fraction of its income on advertising.

15. Moreover, as the Patent Office can see, by looking at the product, we do not spend an inordinate amount of money on product presentation or packaging. I believe that the reason that customers buy the product is because of the advantages that the invention provides.

16. The Patent Office can see that both Exhibit A and Exhibit B (which are my company's products) are covered by and include the elements of claims 1 and 42, respectively.

17. There is also evidence of exact copying of the invention.

18. Attached to this Declaration is a copy of a photograph of a first competitor's product, which virtually identically copies one of the embodiments of the invention. See, Exhibit D. The dimensions of the product are similar. The substrate, the control layer and the bisected release layer are identical. The adhesive in the first competitor's product has been tested and determined to be nontoxic as claimed in my application for my invention. A copy of the test results showing the similarity in adhesive is shown in Exhibit K. This competitor is a larger better-established company than mine and has a large distribution network in place. Although I am unaware of the exact date that this competitor's product went into public use, I became aware of it well after I invented and began selling the devices as shown in Exhibits A & B and claimed in Patent Application Number 10/734,461.

19. There is additional evidence of copying because the label and instructions supplied with the competitive product are almost identical. For example, a copy of the instructions supplied to the customer by my company with the inner package of the product is attached as Exhibit C. Exhibit E is a photocopy of the first competitor's instructions.

20. Attached to this Declaration is an internet web page printout showing a second competitor's product, which also virtually copies the flat embodiment of my invention. In this instance the dimensions of the product are similar and the substrate, control sheet and bisected release layers are identical to my invention. See, Exhibit F.

21. The second competitor closely copied the instructions of the Fe-Lines product. A copy of the instructions from this competitor's product is attached as Exhibit G. The second competitor also used packaging very similar to that used for the Fe-Lines product. See, Exhibits F, G

22. The products incorporating the claimed invention have been recommended in award-

winning books, including:

- Complete Kitten Care, by Amy D. Shejail, a nationally known authority on pet care and behavior, a spokesperson for Purina®, and an award-winning author of more than a dozen nonfiction pet books.
- Kittens for Dummies, by Dusty Reinbolt, a nationally known authority on cat care and behavior, and an award-winning author and a regular contributor to the Whole Cat Journal and City + Country Pets.
- The Cat Fanciers' Association Complete Cat Book, by Merdecai Siegel, a nationally known, highly-regarded and widely published authority on pet care.
- Think Like A Cat, by Pam Johnson-Bennett, a Certified Animal Behavior Consultant and clinical member of the International Association of Animal Behavior Consultants. She is the author of a number of award-winning and critically acclaimed books and one of the country's most well-known and popular experts on cat behavior.

23. A copy of the entire packaging and display of the infringing device attached as Exhibit D is attached as Exhibit L.

I declare under penalty of perjury that the foregoing is true and correct.

Date:

9/6/06


Bonnie Pemberton

APPLICANT'S PRODUCT

EXHIBIT A

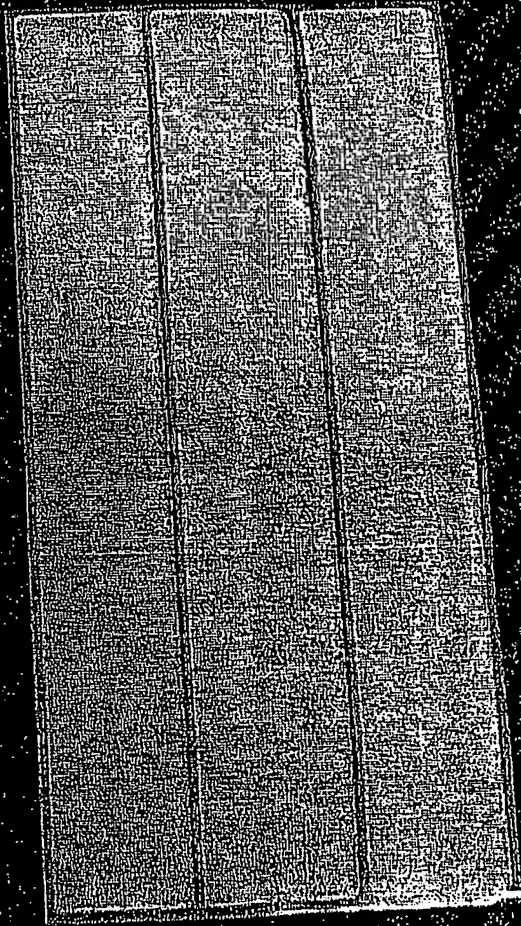


Stop Cats
from
Destroying
Furniture!

Sticky Paws is a transparent adhesive that keeps cats off your furniture and floors. It's safe for your cat and your furniture. It's the only product that works!

Transparent - applies directly to fabric!

Example
Applied



APPLICANT'S PRODUCT

EXHIBIT B



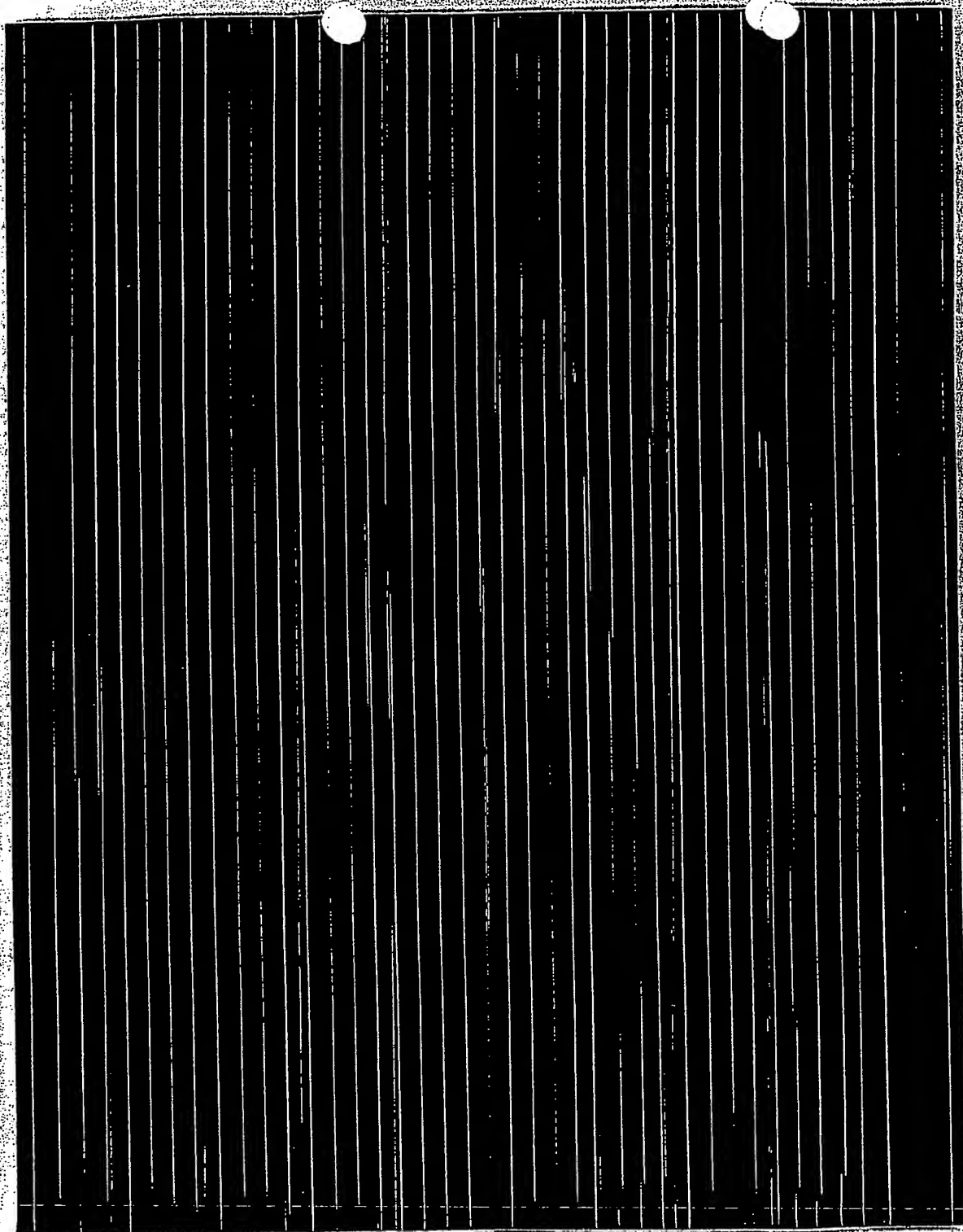
**Sticky
paws**
FOR PLANTS

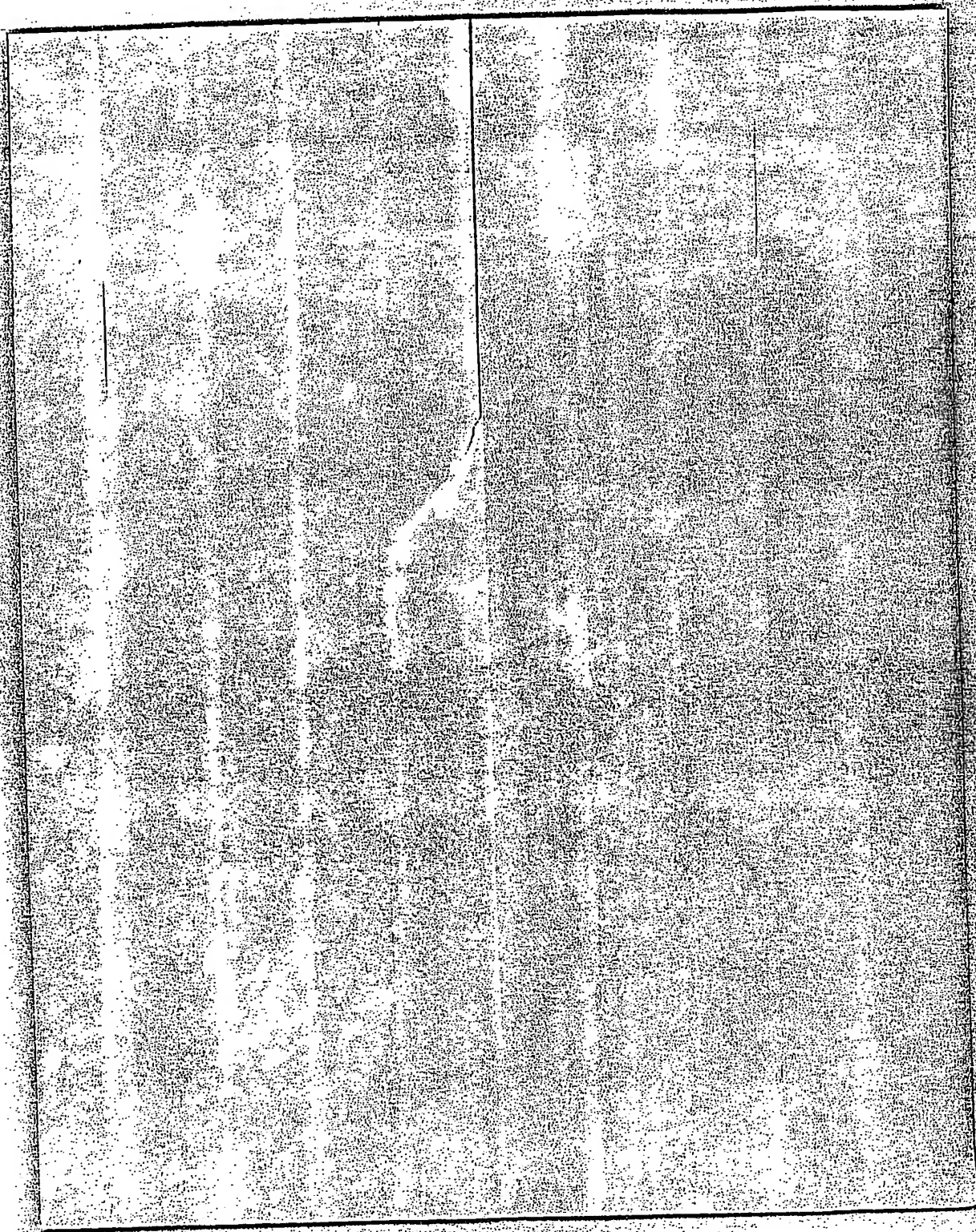
**Keep Cats Out
of House Plants
for Good!**

- ◆ **Safe !**
- ◆ **Effective !**
- ◆ **Non-toxic !**

10 Strips per package







**APPLICANT'S PRODUCT
INSTRUCTIONS**

EXHIBIT C

HOW to APPLY Sticky Paws®

There are three (3) 12"x2" Sticky Paws® strips on each brown base sheet. Each 2" strip has a thin cut down the middle to allow for **crack & peel** application.

Step 1: Remove single white Sticky Paws® strip from brown base sheet by gently peeling from the top down. sticky side of strip is now exposed underneath with white application "crack and peel" paper on top.

Step 2: Position strips sticky side down wherever needed, on furniture, etc. (Please see CAUTION below) Press firmly from top to bottom until strip has adhered to desired surface.

Step 3: When strip is in place, gently crack and peel the remaining layer of white paper off strip. Your transparent Sticky Paws® strip will now stay in position anywhere from weeks to months depending on the type of surface and position of the strips.

To remove, simply peel off by hand, or gently apply a damp cloth or steam. Replace as needed. Sticky Paws® is non-toxic, water soluble, and won't leave a sticky residue.

DISCLAIMER: Fe-lines, Inc. disclaims all warranties, express or implied (including, without limitation, the warranties of merchantability and of fitness for a particular purpose).

Sticky Paws® may damage certain surfaces (including, without limitation, wood finishes, painted surfaces, leather, vinyl, and wallpaper), so ALWAYS TEST a small piece of Sticky Paws® on an inconspicuous area before applying. Sticky Paws® is ineffective on surfaces treated with non-stick and/or stain-repellent products, such as Scotchgard™. In light of these considerations, it is the user's sole responsibility to determine whether Sticky Paws® is fit for a particular application, and to remove Sticky Paws® promptly from a surface to which it will not adhere and properly discard it. Sticky Paws® is not intended for animal or human consumption, and may cause injury or death. If ingestion occurs, seek immediate medical attention. In no event shall Fe-lines, Inc. be responsible for any damage to furniture or any other applications, or for any bodily injury or death to any person or animal.

2003-0808

Cómo utilizar Sticky Paws®

Cada laminilla café incluye tres tiras Sticky Paws® de 12" X 2". Cada tira de 2" tiene una delgada incisión en el medio que permite doblar y despegar la tira al aplicarla.

Primer Paso: Despegue gentilmente sus tiras blancas Sticky Paws® de su base color café. Hágalo desprendiendo la tira de arriba hacia abajo. El lado pegajoso de la tira queda expuesto y el color blanco apuntando hacia arriba.

Segundo Paso: Coloque las tiras pegándolas en el lugar donde se necesite, por ejemplo en la esquina de sus muebles. Apriete la tira firmemente de arriba hacia abajo hasta que ésta esté completamente adherida a la superficie deseada.

Tercer Paso: Después de que su tira esté en el lugar correcto, gentilmente pellizque y remueva la superficie blanca de la tira. Su tira transparente Sticky Paws® ahora está lista para trabajar y quedarse en esa posición por semanas o meses dependiendo del tipo de superficie y posición de la tira.

Para remover las tiras, simplemente quítelas con la mano, o use un trapo húmedo o vapor. Reemplace sus tiras según lo necesite. Las tiras Sticky Paws® son un producto no tóxico, soluble al agua, y que no deja un residuo pegajoso al removerse.

EXCLUSIÓN DE GARANTÍAS: Fe-Lines, Inc. no ofrece ninguna garantía, expresa o implícita (incluidas, sin limitación alguna, las garantías de comerciabilidad y de idoneidad para un fin específico).

Sticky Paws® puede dañar determinadas superficies (incluidas, a título enunciativo, los acabados de madera, las superficies pintadas, el cuero, el vinilo y el papel pintado), por tanto, antes de su aplicación, pruebe siempre con un pequeño trozo de Sticky Paws® en una zona que pase desapercibida. Sticky Paws® es ineficaz en las superficies tratadas con productos antaadherentes o quitamanchas, como por ejemplo Scotchgard™. Teniendo esto en cuenta, es responsabilidad exclusiva del usuario determinar si Sticky Paws® es adecuado para una aplicación específica y retirar Sticky Paws® inmediatamente de una superficie a la que no se adherirá, así como deshacerse de él apropiadamente. Sticky Paws® no está concebido para el consumo por parte de animales o personas y puede causar lesiones o muerte. En caso de que se ingiera, consulte inmediatamente a un médico. Fe-Lines, Inc. no será responsable en ningún caso de los daños producidos a muebles o cualquier otra aplicación, ni de las lesiones o muertes causadas a personas o animales.

Fe-Lines, Inc., 2806 6th Ave., Fort Worth, TX 76110 - www.stickypaws.com

Pour utiliser Sticky Paws®

Chaque folio marron contient trois bandes de Sticky Paws® 12"x2". Chaque bande de 2" est pourvue d'une mince ligne de séparation au milieu. Pliez à cet endroit et pelez la bande.

Premier pas: Pelez les bandes blanches de Sticky Paws® du folio marron avec précaution en tirant de haut en bas. La face inférieure collante est maintenant découverte et la face blanche avec la ligne de pliage mince est en haut.

Deuxième pas: Appliquez les bandes sur les meubles à protéger avec la face collante en dessous. Appuyez dur de haut en bas jusqu'à ce que la bande adhère fermement à la surface concernée.

Troisième pas: Dès que la bande adhère bien, tirez sur le fil de papier blanc du dessus pour l'enlever. Vous avez alors sur votre meuble une bande transparente de Sticky Paws® qui reste collée pendant des semaines et des mois (suivant la constitution de la surface et la position de la bande).

Pour enlever la bande de Sticky Paws®, tirez tout simplement à la main. Vous pouvez également frotter légèrement avec un chiffon humide ou utiliser la vapeur. "Bas les pattes" est un produit non toxique, soluble à l'eau, et il ne laisse aucune trace de colle.

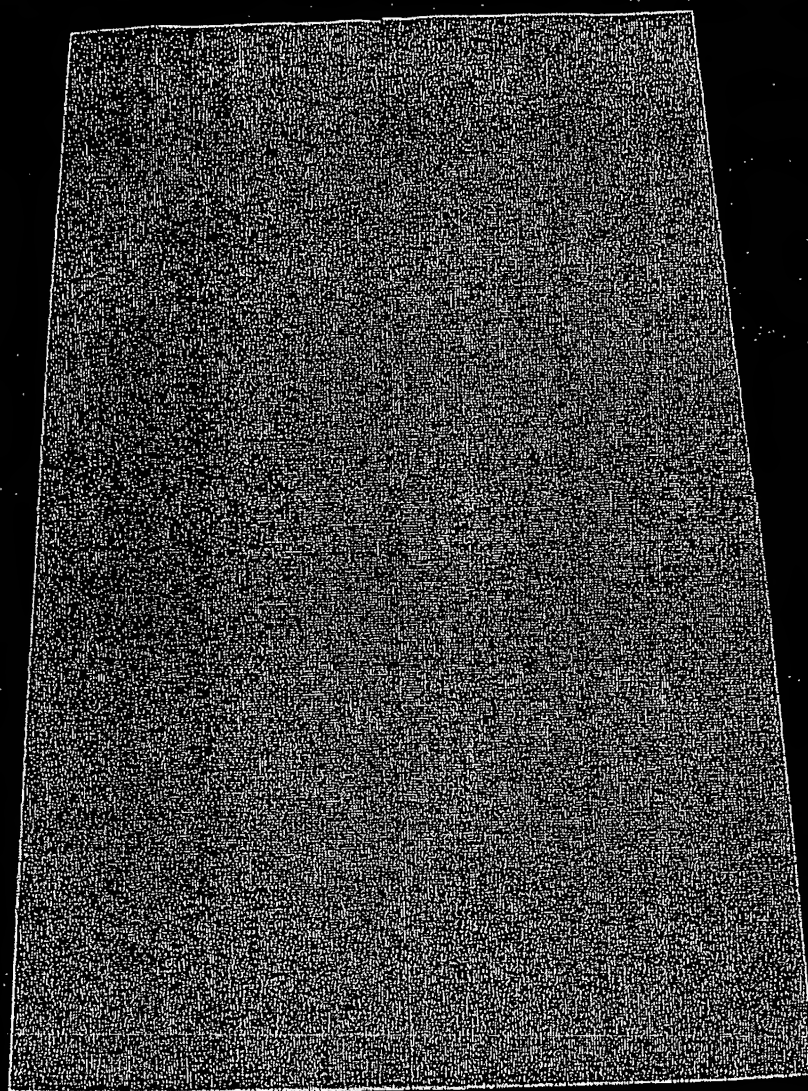
RÉNONCIATIONS: Fe-lines, Inc. n'offre aucune garantie, expresse ou implicite (incluant, sans limitation, les garanties de la commerciabilité et de l'aptitude pour une détermination particulière).

Sticky Paws® peut endommager certaines matières surfaces (incluant, sans limitation, les surfaces de bois, les surfaces peintes, le cuir, le vinyle et les tapisseries). Pour cette raison, essayez toujours d'utiliser Sticky Paws® sur un petit endroit invisible avant de l'utiliser. Sticky Paws® n'est pas efficace sur les surfaces traitées avec les produits anti-adhésives ou anti-taches, comme Scotchgard™. Rendant compte de ces considérations, c'est la seule responsabilité de l'utilisateur à faire la détermination si Sticky Paws® est convenable pour une application particulière et d'enlever Sticky Paws® immédiatement d'une surface à laquelle il n'adhère pas et de le mettre au rebut de la manière appropriée. Sticky Paws® n'est pas destiné à la consommation animale ou humaine et peut causer des blessures ou la mort. En cas d'ingestion, consultez immédiatement un médecin. Fe-lines, Inc. ne sera responsable en aucun cas d'endommages aux meubles ou n'importe quelles autres applications, ni en cas de blessures de corps ou mort à aucune personne ou animal.



FIRST COMPETITOR'S PRODUCT

EXHIBIT D



FIRST COMPETITOR'S INSTRUCTIONS

EXHIBIT E

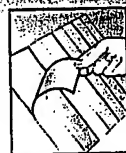
PAWS AWAY!

STOP cats from
scratching!
Empêchez le chat de faire ses griffes!

Use on counter tops, drapes, stereo speakers, & more!

Utilisez sur le dessus de comptoir, sur les rideaux, sur les haut-parleurs et plus.
Il est recommandé pour les murs, les boîtes, les surfaces
peintes, le papier peint, le carrelage et plus.

HOW TO USE PAWS AWAY:
1. Remove individual PAWS AWAY strip from the base sheet by gently peeling it off from the top down. The sticky side of strip is now exposed on the bottom with the glossy "Crack & Peel" on top.
2. Position strips sticky side down wherever needed. Please see CAUTION below. Press the PAWS AWAY strips firmly from top to bottom until strip has adhered to the desired surface.
3. Gently "Crack & Peel" the remaining layer of glossy paper off the strip once it is in place. Your transparent PAWS AWAY strip will now stay in position anywhere from weeks to months depending on the type of surface and position of the strips.



Étape 1 - Retirez les bandes individuelles PAWS AWAY de la feuille de base en la tirant doucement. Le côté collant de la bande est maintenant exposé vers le bas avec le côté brillant déjà coupé vers le haut.



Étape 2 - Positionnez les bandes individuelles PAWS AWAY où vous en avez besoin. Veuillez voir les PRÉCAUTIONS ci-dessous. Pressez les bandes PAWS AWAY fermement du haut vers le bas jusqu'à ce que la bande adhère bien sur la surface désirée.



Étape 3 - Retirez doucement le papier brillant de la bande une fois qu'elle est en place. Votre bande transparente PAWS AWAY restera en position n'importe où de quelques semaines à plusieurs mois dépendant du type de surface et de la position de la bande.



TO REMOVE PAWS AWAY STRIPS - Simply peel off or gently apply a damp cloth or a little steam. The strips are water soluble non-toxic and will not leave a sticky residue.

POUR ENLEVER UNE BANDE PAWS AWAY - décoller en tirant doucement ou appliquer un linge humide ou un peu de vapeur. Les bandes sont solubles à l'eau et non-toxiques. Elles ne laisseront aucune résidu collant.

Ne Dégrieffez Pas!
S.V.P. laissez en place à ce sujet.
www.pawproject.org

CAUTION: PAWS AWAY may damage certain surfaces so ALWAYS TEST A SMALL PIECE OF PAWS AWAY in an inconspicuous area before applying. PAWS AWAY will not work on surfaces treated with non-stick and/or stain repellent products such as Scotchgard®. Therefore, it is the user's responsibility to determine whether PAWS AWAY is safe for a specific use. Neither Cosmic Pet Products nor its retailers will be responsible for any damage to furniture or other surfaces caused by applying PAWS AWAY to it.

PRÉCAUTIONS: PAWS AWAY peut endommager certaines surfaces, donc il est très important de TOUJOURS ESSAYER UN PETIT MORCEAU DE PAWS AWAY sur un endroit peu apparent avant l'application. PAWS AWAY ne collera pas sur une surface traitée avec un produit anti-tache ou un traitement anti-éclaboussure tel que Scotchgard®. Par conséquent, il est de la responsabilité de l'utilisateur de déterminer si PAWS AWAY doit être placé pour une utilisation spécifique. Ni Cosmic Pet Products ni les détaillants ne seront tenus responsables des dommages faits aux meubles ou autres surfaces à cause de l'utilisation de PAWS AWAY.

PAWS AWAY!

STOP cats from scratching!

• safe for cats & fabric
• use on counter tops,
drapes, stereo
speakers & more



Please read more about it at
www.pawproject.org

contains 24 strips
contient 24 strips

SECOND COMPETITOR'S PRODUCT

EXHIBIT F

protect your furniture from clawing Cats!

The UK's Premier Pest Control Solution

HOME | CONTACT | FAQs

Pest Control By Mail Order - Delivered Straight To Your Door!

Home > Cats and Dogs > Sticky Claws (12 Strips Per Pack)

(12 STRIPS)

Price

£4.99

Ants
Aphids/Other Insects
Cats and Dogs
Fleas
Flies
Electronic Fly Killers
Glue Board Fly Killers
Mice
Moles
Mosquitoes
Moths
Rats
Slugs and Snails
Spiders
Vine Weevil
Wasps
Weeds
Woodlice

- Simple and effective.
- Completely harmless to both Cats and furniture.
- Unobtrusive to the eye.

How It Works

stops pet cats from clawing and scratching in the home by using a specially designed transparent sticky strip.

Cats do not like sticky surfaces and will not scratch and claw where is placed. Completely harmless to the cat and to furniture.

Size

Each Strip 29 x 11cm

Stop Cats from
Destructing Furniture!



1. Apply the strip to the furniture surface.
2. Cats will not scratch the sticky surface.
3. The strip is completely harmless to the cat and the furniture.
4. The strip is easy to remove and replace.

Add

Stock Status
Want To Buy

TOP SE
Live Mouse



More

Ultrasonic Mr
Repeller



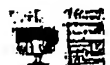
More

More Repe



More

Ultrasonic Re



More

FOR AMERICAN SHOPPERS
THIS PRODUCT IS NOT AVAILABLE FOR SALE INTO THE USA!!

< Back

Fire Pits
Gas Barbecues
Patio Heaters

buy now pay later with

able 2 buy

Pay Nothing For 6 Months!
On Selected Lines

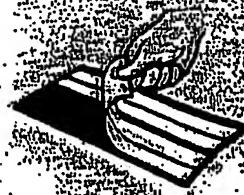
SECOND COMPETITOR'S PRODUCT INSTRUCTIONS

EXHIBIT G

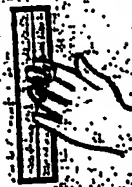
Protects Furniture, Curtains, Carpets, Hi-Fi Speakers etc. from Cats' Claws

INSTRUCTIONS:

Each base sheet has 2 strips.
Each strip is covered with a
top layer of paper which is cut down the
middle.



Step One: Remove a
strip from
base sheet exposing the
sticky underside (do not
peel off the top layer of
paper at this stage).



Step Two: Position the
strip wherever needed,
on furniture, curtains etc.
Press firmly until the strip
has fully adhered.



Step Three: Carefully
peel off the top layer of
paper. The
strip will now
stay in position from
weeks to months.

To remove, simply peel off by hand or
gently apply a damp cloth. Replace as
needed.

is non-toxic and won't leave
a residue.

is not recommended for
wood finishes, painted surfaces, leather,
vinyl or wallpaper.

AWARD

EXHIBIT H

Certificate of Achievement

The Editors and Product Review Panel of CAT FANCY magazine proudly present

1998 Editors' Choice Award

for one of the

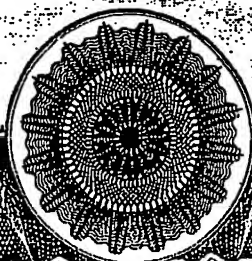
Best New Cat Products of 1997

to

Sticky Paws for Plants & Sticky Paws for Furniture

Congratulations to Fe-Lines Inc.

Jane Calloway
Jane Calloway, Editor



AWARD

EXHIBIT I

[REDACTED]
[REDACTED]
Phone [REDACTED]

February 19, 1999

Bonnie Pemberton, President
FE-LINES, Inc.
[REDACTED]
[REDACTED]

Dear Ms Pemberton:

I ran an endorsement for Sticky Paws on page 8 of this winter edition of our newsletter. This is hardly big time - CATNIP! goes out to about 350 customer households - but at least it's a class publication with an attentive readership.

This was a completely spontaneous endorsement based on our experience with your product.
[REDACTED]
[REDACTED]
[REDACTED]

Sincerely,
[REDACTED]
[REDACTED]
[REDACTED]

AWARD

EXHIBIT J

ASPCA[®] Consumer Products News Release

For: Immediate Release
Contact: [REDACTED]
[REDACTED]

The American Society for the Prevention of Cruelty to Animals
424 East 92nd Street
New York, NY 10128 www.asPCA.org

ASPCA[®] Seal of Approval Granted To Sticky Paws For Furniture[™] And Sticky Paws For Plants[™]

(February 1, 2000) New York - The ASPCA has recently issued its Seal of Approval to Fe-Line's Sticky Paws[™] for Furniture and Sticky Paws[™] for Plants.

Sticky Paws[™] for Plants helps keep cats out of house and potted plants. These 2" x 12" brown corrugated plastic strips are sticky on one side and can be easily cut to size to surround the tree in the plant's pot. Sticky Paws[™] for Plants are effective, waterproof and won't interfere with watering. Sticky Paws[™] for Furniture stops cats for scratching furniture. These 2" x 12" transparent acrylic adhesive strips apply directly to furniture, drapes, stereo speakers, counter-tops and anywhere else cats should not be! StickyPaws[™] is a safe and effective product that won't harm cats or furniture. It is water-soluble and won't leave a residue when removed.

3% of all sales of these products will directly benefit ASPCA national humane programs. For more information on these products, please contact Fe-Lines at (817) 926-3023 or 888-697-2873, or visit Fe-Line's website: www.stickypaws.com. Other recent Seal of Approval recipients also include Mymark's Pet Step[™] pet ramp and Transoniq's Wodent Wheel[™] for small animals. The 3-year old ASPCA Seal of Approval pet product evaluation program includes such leading manufacturers as Daskocil, Johnson Pet-Dor, Prestone, T.F.H/Nylabone and over 30 others.

The American Society for the Prevention of Cruelty to Animals was founded in 1866 as the first humane organization in the Western Hemisphere. Today, the ASPCA has over 475,000 members and donors, and continues to prevent cruelty and alleviate the pain, fear, and suffering of animals through nationwide education, awareness, legal and legislative programs. Additionally, The ASPCA operates a full service animal hospital, adoption facility, and Humane Law Enforcement Department in its New York City headquarters. For more information about the ASPCA, visit our web site at www.asPCA.org.

###

TEST RESULTS

EXHIBIT K

January 28, 2004

Mr. Chris Ruben
Fe-Lines, Inc.
[REDACTED]

SUBJECT: Chemical analysis on several adhesive tapes and consulting on product as requested by the above company.
Purchase Order Number

RECEIVED: 1. Sticky Paws for Furniture
[REDACTED]

3. Paws Off! (Roll)

4. Paws Away (Strips)
[REDACTED]
[REDACTED]
[REDACTED]

POLYMER IDENTIFICATION: ASTM D 3677-00

Instrument:	Perkin Elmer Spectrum BX Spectrometer
Resolution:	4.0
Number of Scans:	6
Method of Preparation:	Film Method

Sample Identification

Sticky Paws
[REDACTED]

Paws Off

Paws Away
[REDACTED]
[REDACTED]

Polymer Identification

Polyacrylate*
[REDACTED]

Styrene-isoprene-Styrene / Styrene-butadiene-Styrene

Poly(butyl acrylate)**
[REDACTED]
[REDACTED]

* The Sticky Paws sample appears to be Poly(ethylhexyl acrylate) [REDACTED]
[REDACTED]

** Best matches in our Polyacrylate libraries

Enclosed please find the infrared spectra of the samples.

Page 2

GAS CHROMATOGRAPHY/MASS SPECTROMETRY (GC/MS)
Model # Hewlett Packard HP6890 GC/MS

Column:
Samples: Sticky Paws

RESULTS

RESULTS
None of the extracts of the three tapes evaluated contained organic additives. All contained polymer fragments. Enclosed are the chromatograms for reference.

COMMENTS

COMMENTS
The following discussion is an attempt to answer questions submitted

- Polymer fingerprints and identification were performed on six (6) different samples
- The adhesive used in Sticky Paws [REDACTED] are comprised of a family of adhesives identified as polyacrylates but appear to be different in the type of monomer used to produce the polyacrylates.
- All the tapes contain FDA approved polymers and have been used as adhesives for skin contact. [REDACTED]

The product life depends on the substrate that it is attached including such solid material characteristics as surface contact area, type of finish, surface tension, etc., if product life ends when the adhesive cannot be easily removed from the substrate.

Mr. Chris Ruhen
Fe-Lines, Inc.
Project Number:
Page 3

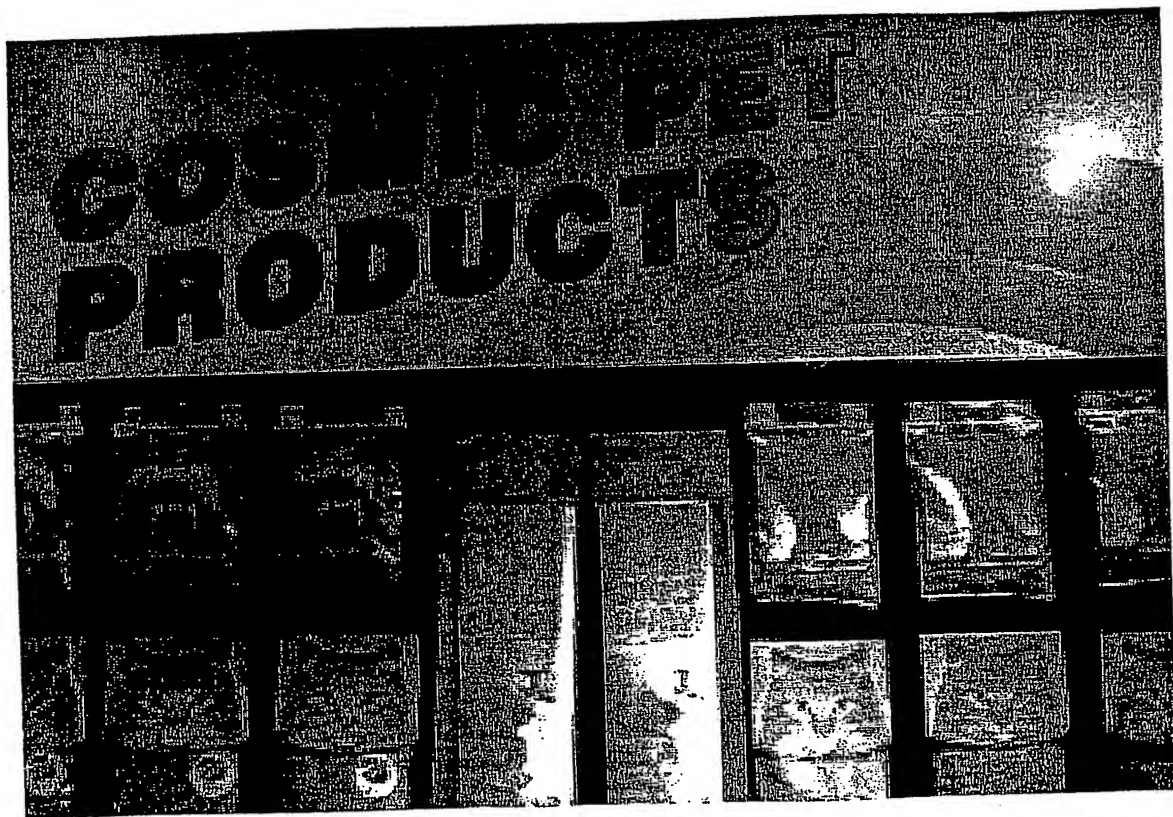
COMMENTS - Continued

- The adhesive used in Sticky Paws is used in the Medical supplies field. FDA does not sanction products but dictates what testing and requirements are required for a specific application. The FDA regulates food and drugs and items that will come in contact with such or added to.
- The adhesives used in Sticky Paws and Paws Away are both polyacrylates; however, the monomers used to manufacture those adhesives appear to be different.
- [REDACTED]
- We would suggest isopropanol or rubbing alcohol. It will not dissolve the adhesives but soften them up enough to be able to ball it up from solid substrates. One may have to carefully work at fabric substrates. Of course, one must first test a non-conspicuous portion of the substrate to determine if any damage may occur to the substrate.
- Same as above

FIRST COMPETITOR'S
DISPLAY AND PACKAGING

EXHIBIT L





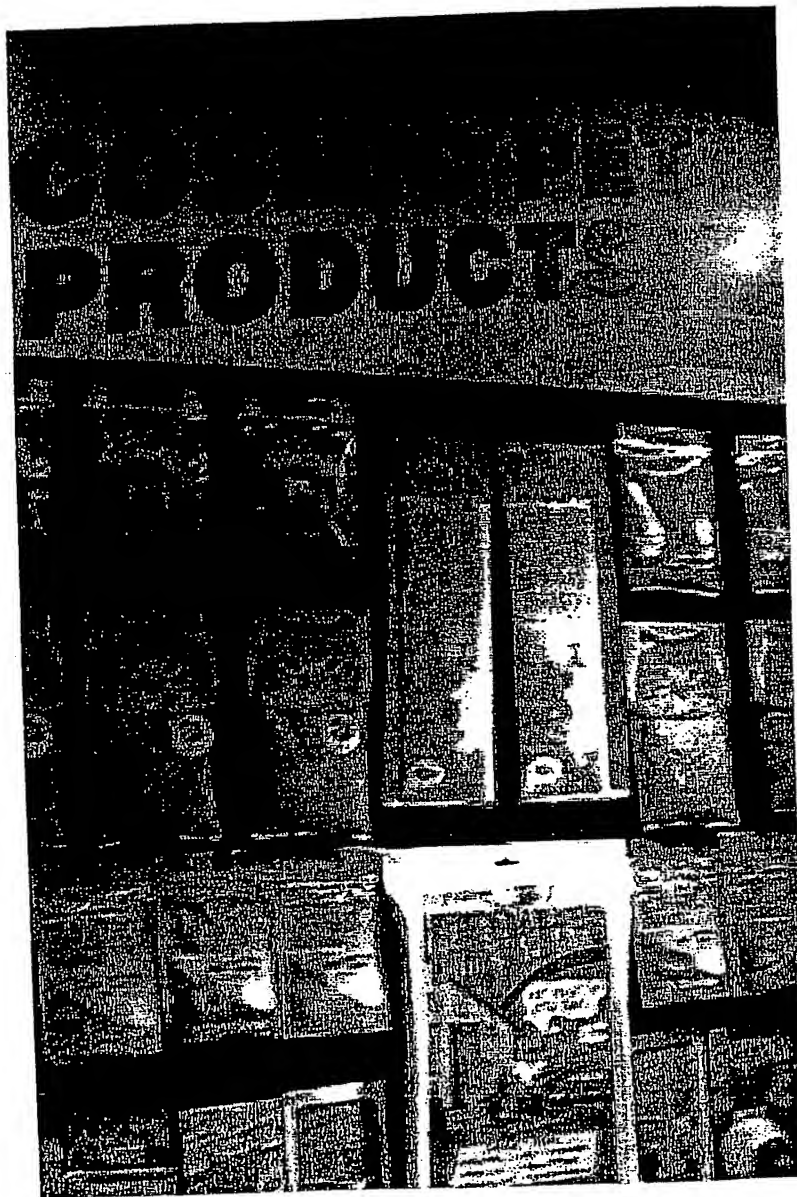


EXHIBIT 3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: BONNIE PEMBERTON

Serial No.: 11/084,540

Filing Date: 03/18/2005

Title: METHOD AND DEVICE FOR PREVENTING PETS FROM
CLAWING HOME FURNISHINGS

Examiner: Patricia L. Nordmeyer

Art Unit: 1772

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF CHRIS RUBEN

1. My name is Chris Ruben. I am over 21 years of age, of sound mind and willing and able to make the following Declaration.
2. I am the president and chief executive officer of CMR Creative Marketing Resources, Inc., a Texas corporation in good standing. The company is in the business of marketing pet products to distributors and consumers throughout the United States and abroad. Over a period of 8 years, my company has been involved in marketing products for Fe-Lines, Inc., including the invention of the application noted above.
3. While I have sold pet products for many years, I am not an expert in the filed of plastics, adhesives or adhesive tapes. Moreover, I am not an expert in the field of packaging. I consider myself one of ordinary skill in the art when it comes to the subject matter of the invention disclosed in the application.
4. The product has been immensely successful in the marketplace. It has grown from a market share of approximately zero in 1996 to a zenith to control a market share of approximately 80% of this product in the United States.
5. I have attended domestic and international trade shows at which the product of Fe-Lines incorporating the elements of the invention has been displayed. I have witnessed the presentation of the competing products in these same trade shows indicating that the product of the invention incorporating the elements of the invention and the competitor's products move in

the same channels of trade. Moreover, at least one of Fe-Lines' customers of the product incorporating the elements of the invention has purchased one of the competing products providing further evidence of the same customers and channels of trade.

6. Before competitors began copying the product, there was no product that incorporated the advantages of the claimed invention on the marketplace. Specifically, those claimed advantages include among others a bisected release layer, and other features such as a transfer sheet, a control sheet adjacent to the transfer sheet, a bisected release layer adjacent to the control sheet, and wherein the first release sheet and the second release sheet abut but do not overlap. The abutment provides the ability to peel one layer from the transfer sheet and apply it while leaving a non-sticky surface to help in handling. Moreover, the product is useful around "corners" of furniture where an unbisected release layer would not function at all.

7. Advantages contained within the corrugated embodiment of the product that are important to the success of the product includes a strip (control sheet) with one surface being releasable adhered to a corrugated substrate and the other surface being adhered to a release layer. Customers have expressed to me they have purchased and continue to use and be pleased with the invention disclosed in the corrugated embodiment because of the combination of the rigid corrugated substrate with a releasable adhere strip and the release layer.

8. In my experience, customers are extremely satisfied and pleased with the claimed features and function of the invention. For example, at trade shows, I have been directly approached by customers who have directly stated the combination of the transfer sheet, the strip and "two-part"/bisected release layers aids in the application of the invention to furniture and the like. Customers have also expressed satisfaction regarding the gap between the strips on the transfer sheet. Additionally customers have told me that they are pleased in the adhesive's ability to deter their pets' behavior because it causes an unpleasant sticking sensation when touched.

9. Additionally, large-scale buyers of the product have commented that products incorporating the elements of the invention sell well because of its claimed features, including, but not limited to the bisected release layer, the combination of the transfer sheet, the strip and "two-part"/bisected release layer and the adhesives' ability to cause an unpleasant sticking sensation.

I declare under penalty of perjury that the foregoing is true and correct.

Date: 09/06/06



Chris Ruben

EXHIBIT 4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: PEMBERTON ET AL.

Serial No.: 10/734,461

Filed: 12/12/2003

For: "Method and Device for Preventing Pets from Clawing Home
Furnishings"

Examiner: Mark A. Oscele

Art Unit: 1734

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SUPPLEMENTAL DECLARATION OF BONNIE PEMBERTON

1. My name is Bonnie Pemberton and I make this declaration in support of the above noted United States Patent Application. I am over 21 years of age, of sound mind and willing and able to make the following Declaration and all facts recited are with my personal knowledge.
2. I have reviewed the Office Action of September 25, 2006. The examiner takes the position that my invention was a replacement of the prior art double sided tape offered by the 3M Company, and further implies my invention was merely a repackaging and remarketing of the 3M product. This is not correct. The 3M tape did not have the bisected release layer of my invention. Furthermore, the 3M tape was not completely bisected along an axis parallel to its length. The 3M tape was not provided with a base release sheet and a top release sheet. Also, the 3M tape was rolled and not provided flat or in strips as required by my invention. Therefore my invention was not a repackaging of the prior art but rather is substantially different from and a substantial improvement over the prior art 3M tape.
3. The examiner questions whether the market of the stated market share growth includes all double-sided adhesive tapes, including the rolled adhesive tape of 3M or only the double sided adhesive tapes marketed at cat owners for scratch prevention. The examiner implies that an important factor determining market success attributable to product improvements would be whether the double sided adhesive tape roll of 3M tape was sold in pet stores prior to 1996 and questions whether it was ever placed in a way to attract cat owners for its specific use as a cat deterrent. Presumably the examiner means that if the 3M double sided tape was not ever

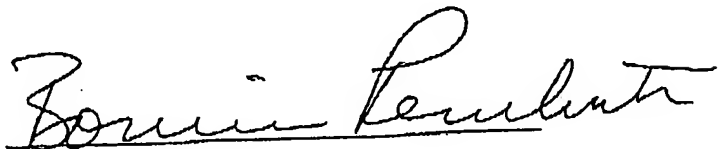
marketed in a way to attract cat owners for its specific use as a cat deterrent, then the increase in sales of my invention is a result of marketing, packaging, and perhaps advertising instead of because of the features of my invention. But, there is no evidence of this position, it is merely speculation. There is evidence that double sided tape was known to cat owners--in fact the Examiner provided two separate articles in 1998 showing the uses of double sided tape. See, "Claws and All: Living With Your Cat, Your Furniture and Your Piece of Mind", HSUS News, p. 1-4 WWW.HSUS.ORG/CLAWS.HTML, 1996 and "Basic Training for Your Cat", Perfect Paws, P. 1-2 WWW.PERFECTPAWS.COM/TRAM.HTML, 1995 (cited by the Examiner Sept. 28, 1998). It is manifestly unfair to discount the drastic increase in sales of my invention because of speculation that a single 3M product was or was not marketed in a particular way. In the market of double sided adhesive tapes for pet scratch prevention, Fe-Lines, Inc.'s share of the market has grown from 0% to almost 80% in less than 10 years despite the company spending only a small fraction of its income on advertising. Fe-Lines, Inc.'s market share has grown even with the subsequent emergence of products similar in presentation and functionality to the claimed invention. I believe the relatively quick rise in market share is because of the elements of the claimed invention as opposed to the packaging, the elements of the claimed invention being a bisected release layer adjacent to a strip having adhesive surfaces on opposite sides adjacent to a planar transfer sheet. Also, there is evidence from the Declaration of Chris Ruben in the record that many customers have bought my invention because of these features. I have never had a customer tell me in all the years I have sold the product that they bought it because of the package or the way that we advertised it.

4. The examiner suggests that the ASPCA Seal of Approval was given in exchange for payment to the ASPCA. But this is not correct. The ASPCA scrutinizes pet related products to ensure claimed functionality and the safety of pets. Products submitted for the Seal of Approval are reviewed by a panel of ASPCA experts comprised of veterinarians, veterinary toxicologists, animal behaviorists, and animal science specialists nationally renowned in their scientific fields. The ASPCA award is only given after a product passes all tests for quality and safety. Therefore the "Seal of Approval" awarded by the ASPCA in 2000 is not a "quid pro quo" for payment. It is a bona fide and deserved award for my product incorporating my invention.

I declare under penalty of perjury that the foregoing is true and correct.

Date:

3/12/07


Bonnie Pemberton

[54] TRANSFER ADHESIVE SHEET MATERIAL

[76] Inventor: Dale K. Straub, 2925 Terrace Ave.,
Alhambra, Calif. 91803

[21] Appl. No.: 872,884

[22] Filed: Jun. 11, 1986

[51] Int. Cl.⁴ A45D 31/00

[52] U.S. Cl. 428/15; 132/73;
428/40

[58] Field of Search 132/73; 40/2 R, 1.5,
40/299; 428/15, 40, 41

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Primary Examiner—Henry F. Epstein

Attorney, Agent, or Firm—Wilsson, Rabbins, Dalgarn,
Berliner, Carson & Wurst

[57] ABSTRACT

A transfer adhesive tab sheet and method for making the same. The sheet includes one or more adhesive areas positioned between a first liner and one or more corresponding top tab liners. The top tab liners have areas that extend beyond the respective adhesive area over the perimeter thereof. The method includes the steps of applying one or more areas of transfer adhesive to the first liner, applying the second liner and die cutting one liner to form the top tab liners having areas extending beyond the corresponding adhesive areas over the perimeters thereof.

13 Claims, 1 Drawing Sheet

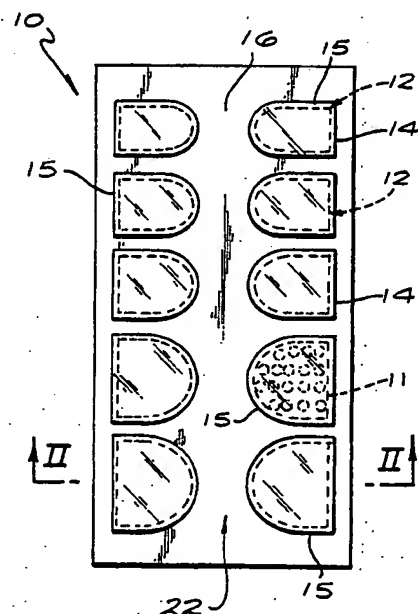


FIG. 1

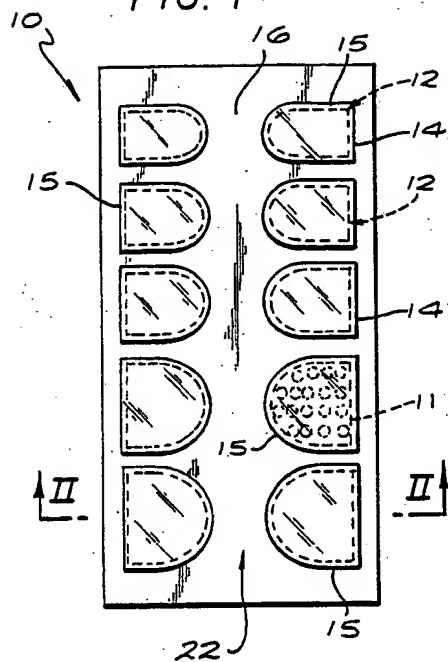


FIG. 4

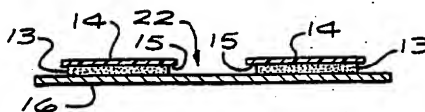


FIG. 2



FIG. 8

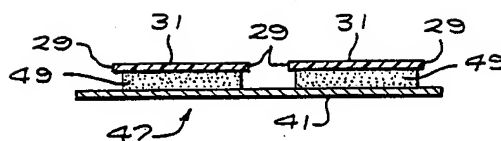


FIG. 3

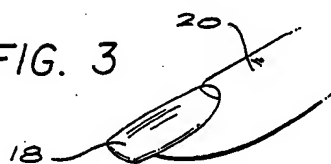


FIG. 5

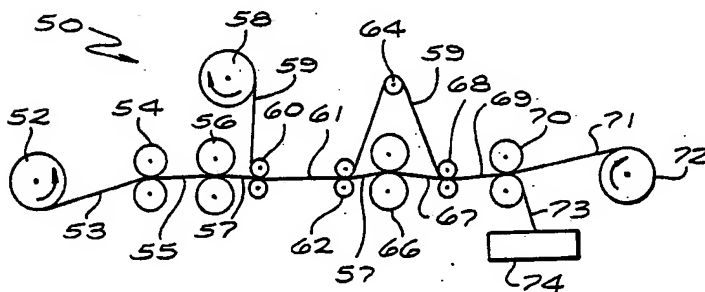
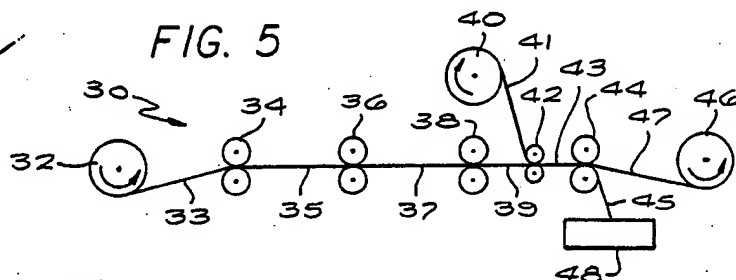
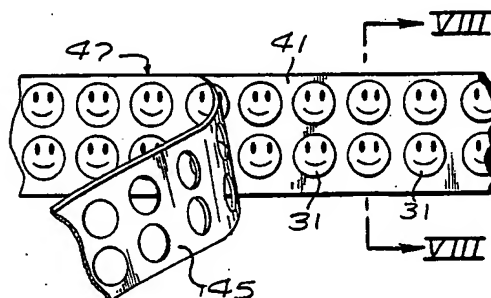


FIG. 6

FIG. 7



TRANSFER ADHESIVE SHEET MATERIAL

BACKGROUND

The present invention relates generally to adhesive labels and transfer adhesive sheet and more particularly to a method and apparatus for producing sheet of adhesive labels and precut areas of transfer adhesive.

Transfer adhesive tabs are used for applying a predetermined shape of adhesive for the binding of two objects. Generally, the transfer adhesive tabs are fabricated as sheet material that includes an adhesive protected by two liners, each being positioned on either side of the adhesive. For example, transfer adhesive tab sheet is available for applying preformed areas of transfer adhesive to finger nails for securing false plastic finger nails thereto.

The known methods of producing such sheet material of transfer adhesive tabs include the steps of applying an adhesive layer to the entire surface of a first liner material and then laminating a second liner material so as to sandwich the adhesive layer between the liners. The next step is to die cut through one liner material, considered the top liner material, and the transfer adhesive layer without die cutting through the other liner material, considered the bottom liner material, to thereby form the tabs which include the predetermined areas of transfer adhesive and the corresponding remaining top liner material laminated thereto. The waste material left between the tabs, including the unwanted adhesive and unwanted top liner material, is then removed leaving the bottom liner material and the predetermined areas of transfer adhesive covered by top liner material that does not extend beyond such predetermined areas.

The sheet material may be manufactured in small pieces or in a long piece formed into a roll. Roll material is generally manufactured in a continuous process which is typically more economical than making small pieces such as letter or A4 size or other sizes. The roll can be cut into such smaller sizes if desired.

A similar process may be used to produce sheet material of labels. The labels are intended to be adhered to an object. Thus, (in contrast with the transfer adhesive tab arrangement) the adhesive and the material forming the liner (referred to as the substrate for labels) that will form the label and that will be printed on are chosen so that the substrate will not easily peel away from the adhesive.

This process suffers from a number of disadvantages. First, die cutting through the adhesive without die cutting through the bottom liner is a sensitive and precise operation. Variations in the thickness of the adhesive will result in either the adhesive not being complete die cut or the bottom liner being die cut to some extent.

Another disadvantage of this process is the difficulty presented in stripping away the waste material without removing the die cut transfer adhesive tabs. There is a tendency, due to the presence of the adhesive, for the tabs to stick to the die. This tendency is aggravated if, due to variations in the adhesive thickness, the adhesive is not completely cut through.

In the event that, due to variations in the adhesive thickness or otherwise, the bottom liner material is cut by the die, it becomes difficult to separate the adhesive from the cut bottom liner material without destroying the integrity of the adhesive.

Another difficulty arising when the desired adhesive thickness on a particular substrate is only needed for a

small job. Substrate is typically purchased precoated. Orders of special precoated adhesive substrate combinations must be bought in minimum quantities or for escalated prices. Some desired adhesive thicknesses may not be available. Typically, the maximum adhesive available on precoated sheets is five thousandths of an inch. The normal thickness is one-half of one thousandth of an inch.

SUMMARY

These disadvantages of prior arrangements have been alleviated to a great extent by the present invention which provides transfer adhesive tab sheet material wherein the top liner material extends beyond the area of the adhesive. According to the method of the present invention, the predetermined adhesive areas are applied to one liner in effectively their final desired shape and relative position. The other liner is then applied to the pattern of adhesive areas. The die cuts are slightly larger than the adhesive areas so that no adhesive is penetrated during the die cut. In this manner, the disadvantages resulting from die cutting through the adhesive are eliminated.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is a top view of transfer adhesive tabs for false finger nails according to a preferred embodiment of the present invention.

FIG. 2 is a view taken along section line II—II of FIG. 1.

FIG. 3 is a perspective view of a tip of a finger illustrating a false finger nail secured by the transfer adhesive from the tabs of FIG. 1.

FIG. 4 is a view like FIG. 2 illustrating an alternate embodiment.

FIG. 5 is a schematic illustration of a rotary die press line according to the present invention.

FIG. 6 is a view like FIG. 5 showing an alternate embodiment.

FIG. 7 is a plan view of a label sheet material according to the present invention.

FIG. 8 is a view taken along section line XIII—XIII of FIG. 7.

DETAILED DESCRIPTION

Refer now to FIG. 1 there being shown a sheet of transfer adhesive tabs generally designated by reference numeral 10 in accordance with the present invention. Sheet 10 includes a bottom liner 16 and a number of transfer adhesive areas 12 covered by tab top liners 14. Each tab 14 is slightly larger than its respective transfer adhesive area 12 to form a lip 15 over essentially the entire perimeter thereof. Each tab should be larger than its respective adhesive area to a sufficient extent such that adhesive will not be cut during the die cut operation. The exact extent to which a tab 14 is larger than adhesive area 12, i.e., the width of lip 15, will depend on the manufacturing variances and the positioning of the adhesive area 12 and the die cutting apparatus as well as the thickness of the adhesive 11, any tendency it may have to spread during the die cut operation and other considerations. The top liner from areas 22 between the tabs 14 have been removed from the sheet 10 of FIG. 1.

Refer now to FIG. 2 there being shown a view of the transfer tab sheet taken along section line II—II of FIG. 1. Note that adhesive 11 is applied in a dot pattern and

is not continuous throughout the entire extent of adhesive area 12.

Refer now to FIG. 4 there being shown a view like FIG. 2 illustrating an alternate embodiment wherein transfer adhesive 13 is utilized and is in a continuous form through area 12 rather than in a dot pattern as is transfer adhesive 11 of FIG. 2.

Refer now to FIG. 3 there being shown a false finger nail 18 adhered to finger 20 using the transfer adhesive 11 applied using tab 14 from the sheet 10 of FIG. 1.

According to the method of the present invention a top liner sheet and bottom liner sheet are provided, transfer adhesive is applied to one of the liner sheets, the other liner sheet is then laminated to the first liner sheet with the adhesive sandwiched between the liners. The excess liner sheet between adhesive areas is removed by a die cut operation leaving a border or lip of liner sheet around the perimeter of the adhesive area.

Refer now to FIG. 5 wherein is shown a schematic illustration of a rotary die press line, generally referred to by reference numeral 30, according to the present invention. Rotary type die cutting systems are generally available such as from the mark Andy Company or Webtron Company. The rotary die cutting systems are available with a number of stations. Each station performs a separate process, such as printing on the substrate or applying adhesive to the substrate. The presently available rotary type die cutting systems can not handle particularly aggressive or sticky adhesive types. When such adhesives are used the rotary type die cutting system may not be used for applying the adhesive and the adhesive must be applied with a silk screen press or a sheet fed press. This increases the cost of making a particular product because the die cutting must be performed by a separate machine from the adhesive application. Moreover, this process must be done by hand.

A rotary extrusion adhesive application system, such as the Graco/LtI Micro-Print hot melt adhesive applicator, available from Graco, Inc., P. O. Box 1441, Minneapolis, Minn. 55440 is capable of applying aggressive adhesives to substrate material. As will be described below with reference to FIG. 5, such a rotary extrusion system is combined with a rotary die cutting system according to the present invention to yield a continuous process for producing custom transfer adhesive and label sheet even with aggressive strong.

Material that may be used for substrate include vinyls, lithographic paper that is uncoated or coated on one side, mylar and others. Such substrate materials are available from a variety of sources such as S. D. Warren, Dupont, Crown Zellerbach Paper Mills, Simpson Paper Mills and others. The liner material may be purchased from Technicote Paper Company, Akrosil Liner Company, Schueller Liner Company and others. Adhesives are generally available from H. B. Fuller Adhesive Company, Findley Adhesive and others.

As shown in FIG. 5, substrate 33 supplied from substrate supply roll 32 is directed to first printing station 34, wherein a design representing a message, logo or otherwise is applied to substrate 33. The once printed substrate 35 is then directed to a second printing station 36 wherein a second design which may be in a different color of ink may be applied. The twice printed substrate 37 is then routed to the adhesive station 38 wherein the adhesive is applied. Adhesive station 38 may include a rotary extrusion adhesive applicator for dealing with particularly strong adhesives. The adhesive printed substrate 39 is then combined with liner material 41

from liner supply roll 40 by laminating rollers 42 to form laminate 43. Die cutting station 44 then cuts through the substrate material of laminate 43 cutting around the pattern of adhesive laid down as described hereinabove. Waste material 45 is then discarded into waste box 48 and the finished sheet 47 is collected on take-up roller 46.

Refer now to FIG. 7 wherein finished sheet 47 is shown with waste material 45 being stripped away to leave stickers 31 on liner 41.

FIG. 8 shows a cross-sectional view of finish sheet 47. Adhesive 49 extends essentially continuously throughout the adhesive area lying between liner 41 and labels 31 cut from the substrate. Note that lips 29 of labels 31 extend beyond the adhesive 49 and that the die cutting operation of die cutting station 44 did not cut through adhesive 49. Also note that FIG. 8 is similar to FIG. 4 except that in the product of labels 31 as contrasted to the product of transfer adhesive tabs 14, the material of labels 31 and the properties of adhesive 49 are chosen for strong adherence therebetween so that the label will be firmly affixed to a desired object.

Another use of label 31 may be a lint remover wherein material 31 constitutes an article to be adhered and the lint on the clothing constitutes the object to which the lint remover backer material is adhered.

Alternative to the construction of FIG. 8 the adhesive 49 may be laid down in a pattern within the adhesive area corresponding to a label 31 such as illustrated in the embodiment of FIG. 2.

Another alternate embodiment which is described in further detail with reference to FIG. 6 is where the pattern of adhesive forms and constitutes the message or design to be viewed such as through a transparent material such as a glass or plastic window or door.

Referring to FIG. 6, in this embodiment of a rotary die cutting line generally referred to by reference numeral 50 two colors of adhesive maybe applied and the finished product maybe used as a message or design viewed through a transparent surface. Alternatively, two types adhesives may be applied wherein different adhesive properties are desired for different areas under the die cut substrate or the liner. For example, patterns of a high humidity or water resistant adhesive maybe laid down in an intermingled pattern with a low humidity adhesive to provide effective adhesive properties through a wide range of environmental conditions. Other such mixtures are possible, for example, high temperature and low temperature adhesives. If desired more than two types of adhesives may be applied by increasing the number of stations in the application system.

Substrate 53, supplied by substrate supply roll 52, is fed to the printing station 54 where a message or pattern is printed in ink on the substrate. The printed substrate 55 is then fed to a first adhesive application station 56 which may be a rotary extrusion type system. The once adhesive printed substrate 57 is then laminated by laminating rollers 60 onto liner material 59 supplied from liner supply roll 58. The laminate is formed at this point because the routing of the once adhesive printed substrate 57 may not be a straight path into the second adhesive application station 66 and exposure of the adhesive to contamination or mechanical parts is desirably avoided. Laminate 61 is then routed to delamination rollers 62 wherein the liner 59 is taken away from the once adhesive printed 57 and that material is directed to the second adhesive application station 66

where a second adhesive is applied to the substrate. The delaminated liner is routed over idle roller 64 and then relaminated by laminating roller 68 onto the twice adhesive applied substrate 67. This laminate material 69 is then routed to the die cutting station 70 wherein the die cuts are made and waste material 73 is collected by box 74. The finished sheet 71 is then collected on take-up roller 72.

The above description and drawings are only illustrative of preferred embodiments which achieve the objects, features and advantages of the present invention, and it is not intended that the present invention be limited thereto. Any modification of the present invention which comes within the spirit and scope of the following claims is considered part of the present invention.

What is claimed as new and desired to be secured by Letters Patent of the United States is:

1. A transfer adhesive sheet material comprising: adhesive means for adhering an article to an object; first and second liner means for protecting said adhesive means, said liner means being less adhesive than said article or object to said adhesive means; said adhesive means positioned over a plurality of separated adhesive areas between said first and second liner means; and, each of said first and second liner means having an area extending beyond essentially the entire perimeter of each said adhesive area, said first liner means being a die cut liner including a plurality of die cut liner tabs, each tab covering at least one corresponding adhesive area and being sized to be larger than said adhesive area to extend beyond essentially the entire perimeter thereof, but not to extend to be in contact with adhesive in a non-corresponding adhesive area.
2. A material as in claim 1 wherein said adhesive means extends essentially continuously within at least one of said adhesive areas.
3. A material as in claim 1 wherein said adhesive means extends within a plurality of separated subareas within at least one of said adhesive areas.

4. A material as in claim 1 wherein said articles are false fingernails.

5. A material as in claim 1 wherein said second liner means is elongated for being formed into a roll.

6. A material as in claim 1 wherein said adhesive means adheres more strongly to said first liner means than to said second liner means.

7. A material as in claim 3 wherein said adhesive subareas form a pattern within the corresponding adhesive area.

8. A material as in claim 7 wherein said adhesive means includes one or more colored adhesives.

9. A material as in claim 7 wherein said pattern includes words.

10. A false fingernail system comprising: one or more false finger nails; and transfer adhesive tab sheet material including first and second liner means for protecting an area of transfer adhesive means positioned therebetween, each of said liner means being less adhesive than said false finger nails or a natural finger nail to said adhesive means and having an area extending beyond essentially the entire perimeter of each said adhesive area said first liner means being a die cut liner including a plurality of die cut liner tabs, each tab covering at least one corresponding adhesive area and being sized to be larger than said adhesive area to extend beyond essentially the entire perimeter thereof, but not to extend to be in contact with adhesive in a non-corresponding adhesive area.

11. A system as in claim 10 including one or more sets of false finger nails and one or more corresponding sets of areas of transfer adhesive sized to fit a set of fingers of one or more hands.

12. A system as in claim 10 wherein one or more of said areas of transfer adhesive each forms an essentially continuous layer.

13. A system as in claim 10 wherein one or more of said areas of transfer adhesive includes a plurality of subareas of said adhesive.

* * * * *

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[54] **ARTIFICIAL NAIL MOUNTING,
REINFORCEMENT, AND METHOD**

[76] Inventor: Charlotte L. Ferraro, 236 Paterson
Ave., Lodi, N.J. 07644

[21] Appl. No.: 432,324

[22] Filed: Dec. 7, 1982

[51] Int. Cl.³ A45D 31/00

[52] U.S. Cl. 428/15; 132/73;
156/61; 428/40

[58] Field of Search 132/73; 428/40, 41,
428/42, 43, 906; 156/61, 63, 289

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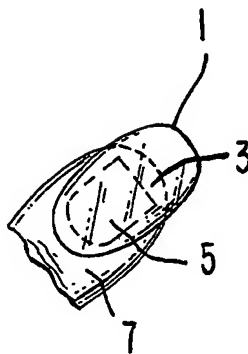
Primary Examiner—Henry F. Epstein

Attorney, Agent, or Firm—Kenneth Watov

[57] **ABSTRACT**

A double-sided, pressure sensitive adhesive tape is dimensioned to form a tab for covering a substantial portion of a human nail, permitting one side of the tab to be secured to the human nail, and the other side of the tab to be secured to an artificial nail, thereby providing a means for both mounting an artificial nail to a human nail, and for reinforcing the artificial nail.

13 Claims, 8 Drawing Figures



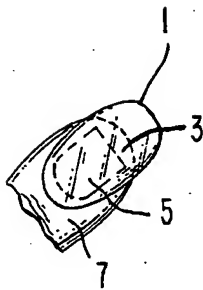


Fig. 1.

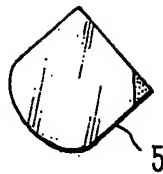


Fig. 2.

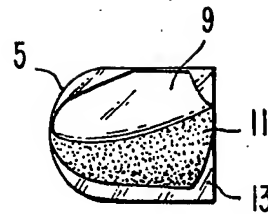


Fig. 3.

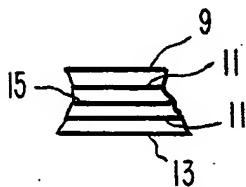


Fig. 4.

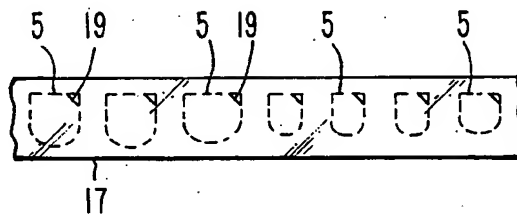


Fig. 5.

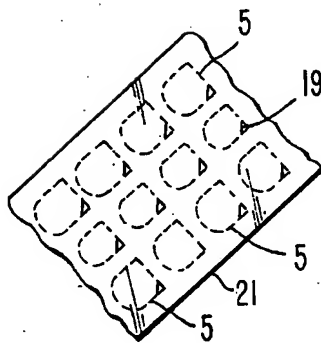


Fig. 6.

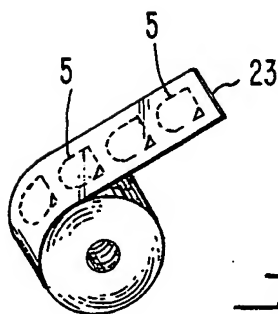


Fig. 7.

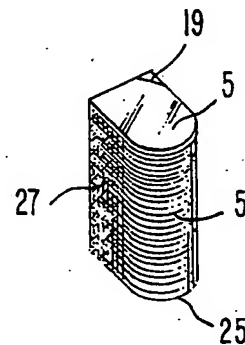


Fig. 8.

ARTIFICIAL NAIL MOUNTING, REINFORCEMENT, AND METHOD

FIELD OF THE INVENTION

The field of the present invention relates to artificial nails, and more specifically to a method and apparatus for mounting and reinforcing artificial nails.

BACKGROUND OF THE INVENTION

Many different artificial nail products are available in the marketplace. All such known artificial nails present problems to a prospective user, making the nails inconvenient and impractical for use in many situations. Certain artificial nail products require a user to glue each artificial nail to the natural or human nail, and to use a solvent to remove the nail. Such nails are time-consuming and messy to mount upon and remove from natural nails, and these artificial nails are difficult to repair when glued upon the natural nail. Sculptured artificial nails are available which require the use of the molds and epoxies to form an artificial nail directly upon the human nail. Generally, such sculptured nails require application and removal by a specialist. Also, these artificial nail products do not provide a user with quick and easy mounting and removal flexibility.

Examples of artificial fingernails are disclosed in Pet-
tety, U.S. Pat. No. 2,633,139, and Bogoslawsky, U.S.
Pat. No. 2,688,331. Each of these patents teach the use
of a pressure-sensitive adhesive previously coated upon
the artificial fingernails' undersides, for securing the
artificial nails to the natural nails. One disadvantage of
such artificial nails is that after one or more uses, the
adhesive loses its adhesion properties, forcing the user
to either discard the artificial nails or use some liquid
glue, for example. Bluestone, U.S. Pat. No. 3,972,325,
teaches a rubber or foam-like nail protector for protect-
ing the protruding portion of long natural nails, wherein
the nail protector is secured to the underside of the
natural nail beyond the fingertip via a double-sided,
pressure-sensitive adhesive tape. Bluestone is not con-
cerned with nor even alludes to an improved method or
apparatus for mounting artificial nails upon natural
nails.

SUMMARY OF THE INVENTION

The present invention overcomes the problems in the
prior art by providing in one embodiment a tab of dou-
ble-sided, pressure-sensitive adhesive material, dimen-
sioned for providing a quick and easy means for mount-
ing an artificial nail to a natural nail, wherein the tab can
be easily replaced, permitting the artificial nail to be
used until it is worn out, and wherein the tab also pro-
vides for easy removal of the artificial nail from the
natural nail.

BRIEF DESCRIPTION OF THE DRAWINGS

The invention will be hereinafter more specifically
explained with reference to some exemplary embodi-
ments depicted in the accompanying drawings, wherein
like items are indicated by the same reference designa-
tion:

FIG. 1 is a top view of an artificial nail mounted upon
a natural fingernail or toenail via one embodiment of
the invention;

FIG. 2 is a top view of a mounting tab of one embodi-
ment of the invention;

FIG. 3 is an isometric view of a mounting tab of one
embodiment of the invention with top and bottom pro-
tective layers being peeled away to expose adhesive on
each side of the tab;

FIG. 4 is a magnified but out of scale view of an edge
portion of a double-sided, pressure-sensitive adhesive
material.

FIG. 5 is a partial top view of a third embodiment of
the invention including a strip of mounting tabs;

FIG. 6 is a partial top view of another embodiment of
the invention including a sheet of mounting tabs;

FIG. 7 is an isometric or pictorial view of a fourth
embodiment of the invention including a roll of mount-
ing tabs; and

FIG. 8 is a pictorial view of a fifth embodiment of the
invention including a stack of mounting tabs.

DESCRIPTION OF THE PREFERRED EMBODIMENTS

FIG. 1 illustrates a first embodiment of the present
invention which includes an artificial nail 1 mounted
upon a fingernail 3 via a mounting tab 5. For complete-
ness, a portion of a finger 7 is also shown. As shown in
FIGS. 1 and 2, it is preferred that the tab 5 be dimen-
sioned for covering a substantial portion of the area of a
fingernail 3. Within practical limits, a range of differ-
ently dimensioned tabs 5 for accomodating different
sizes and shapes of fingernails 3 upon which artificial
nails 1 are to be mounted can be provided. To use an
artificial nail mounting tab 5, for example, one would
first peel a protective layer 9 (see FIG. 3) away from
one side of a tab 5 to expose the adhesive 11 on that side,
and then position and press that side onto a fingernail 3
as shown in FIG. 1. Next, the protective layer 13 is
peeled away from the other side of the tab 5 to expose
the adhesive on that side, followed by positioning and
pressing the artificial nail 1 onto the fingernail 3 and
other side of the tab 5. In this manner artificial nail 1
can be properly positioned on the natural nail 3, whereas
this may not be as easily accomplished if the tab 5 was
first secured to the underside of the artificial nail 1. The
adhesive strength of the tab 5 must provide both for
retention of the artificial nail 1 upon the fingernail 3
during normal daily activities of the user, and for easy
removal of the artificial nail 1 via the application of
sufficient force lifting the artificial nail 1 away from the
natural nail 3 to break the adhesive force of the tab 5. As
shown in FIG. 4, a double-sided, pressure-sensitive
adhesive material from which tabs 5 can be fabricated
includes a suitable carrier 15, such as a plastic sheet or
film, coated on each side by a pressure-sensitive adhe-
sive 11, with protective coatings or coverings 9 and 13
(a waxed paper, for example) covering the adhesive 11
on each side of the tape.

The present inventor has discovered that a suitable
tape for providing the tabs 5 is commercially available
under the name "Super-stik, Double Faced Tape, manu-
factured by the Superior Insulating Tape Co., St. Louis,
Mo. In addition to providing the necessary adhesion
qualities previously mentioned, this tape is thin (approx-
imately 0.005 inch thick) enough to not lift an artificial
nail 1 noticeably away from the natural nail 3 of a user
of the subject tabs 5, but still thick enough to provide
reinforcement of the mechanical or structural strength of
the artificial nail 1.

Another embodiment of the invention is shown in
FIG. 5, as a strip of double-sided pressure-sensitive
adhesive tape or material 17 including a plurality of

partially cutout tabs 5 of the same or different dimensions, or some combination thereof. A user merely selects and pushes out the tab desired. The embossed lines 19 are provided on each side of the protective layers 9, 13, of the tabs 5 to facilitate removal of the protective layers 9, 13. Similarly, a plurality of such partially cutout tabs 5 are provided in other embodiments of the invention on a sheet 21 or roll 23 of double-sided, pressure-sensitive adhesive coated material, as shown in FIGS. 6 and 7, respectively.

In FIG. 8, a fifth embodiment of the invention includes a stack 25 of tabs 5 of the same or some combination of different dimensions, secured together via a strip of appropriate adhesive 27 along the length of the stack 25 (an appropriate adhesive might be provided by rubber cement, for example). Such a stacked pack 25 of tabs 5 provides for compact packaging, and permits a user to selectively remove a single tab 5 from the stack 25 without disturbing other of the tabs 5, by bending the stack 25 in accordian-like fashion.

The mounting tabs 5 of the present invention can be used for mounting any type of artificial nails 1 upon natural nails 3, and permit the artificial nails 1 to be used until worn out or broken. A user simply pulls the artificial nail 1 away from the natural nail 3 to remove the artificial nail 1, and then pulls the tab 5 off of the artificial nail 1 (the usual case), or off of the natural nail 3, if the tab 5 happened to remain on the latter instead of the former. The present inventor discovered that the tabs 5 can be revived after use by pressing their adhesive surfaces against the adhesive surface of a sheet coated with adhesive similar to the original adhesive of the tabs 5. Alternatively, new tabs 5 can be used for each new mounting of an artificial nail 1 to a natural nail 3.

What I claim is:

1. A method for providing a disposable and replaceable artificial nail mounting tab and reinforcement for permitting reuse of said nail until it wears out and for facilitating the securing to and removal from a natural nail of said artificial nail, comprising the steps of:

- (1) shaping an appropriate double-sided, pressure-sensitive adhesive material to form a tab for covering a substantial portion of the area of the outside surface of a human or natural nail, upon which it is desired to mount an artificial nail;
- (2) securing one side of said tab to the outer surface of said human or natural nail;
- (3) positioning an artificial nail over the other side of said tab and said natural nail; and
- (4) pressing said artificial nail onto said natural nail, for securely mounting said artificial nail to said natural nail via the adhesive on the other side of said tab.

2. The method of claim 1, further including the step of making the thickness of said double-sided, pressure-sensitive adhesive material of a dimension for providing structural reinforcement of said artificial nail.

3. The method of claims 1 or 2, further including the steps of providing a plurality of said tabs as partial cutouts upon a double-sided, pressure-sensitive adhesive sheet, and dimensioning said tabs to have either the same or different shapes, or some combination thereof, the latter two for providing a selection of tabs for use on nails of different shapes and area, respectively.

4. The method of claims 1 or 2, further including the steps of providing a plurality of said tabs as partial cutouts upon either a strip or roll of pressure-sensitive adhesive tape, and dimensioning said tabs to have either

the same or different shapes, or some combination thereof, the latter two for providing a selection of tabs for use on nails of different shapes and area, respectively.

5. The method of claims 1 or 2, further including the steps of stacking together a plurality of said tabs, and coating said stack of tabs with an appropriate adhesive along a strip the length of said stack of tabs, for permitting said tabs to be individually "peeled away" or removed from said stack without disturbing the remaining tabs.

6. The method of claim 1, further including after step (1), the step of peeling away a protective covering from said one side of said tab for exposing the adhesive on that side.

7. The method of claim 1, further including after step (2), the step of peeling away a protective covering from said other side of said tab for exposing the adhesive on that side.

8. A disposable and replaceable mounting tab and reinforcement for an artificial nail, for permitting reuse of said artificial nail until said nail wears out, comprising:

a double-sided, pressure-sensitive adhesive material shaped to form a tab for covering a substantial portion of the area of the outside surface of a human or natural nail upon which it is desired to mount an artificial nail; and

first and second protective coverings on one and the other sides of said tab, whereby in one procedure for using said tab, said first protective covering is removed from said tab to expose the adhesive on said one side for securing this side to said natural nail, after which said second protective covering is removed for exposing the adhesive on the other side of said tab for securing this side to said artificial nail, thereby securing said artificial nail to said human or natural nail.

9. The mounting tab of claim 8, wherein said adhesive material is of a thickness for providing reinforcement of the artificial nail it secures to a natural nail.

10. The mounting tab of claims 8 or 9, further including:

a sheet of double-sided, pressure-sensitive material having a plurality of said mounting tabs formed thereon as partial cutouts, said tabs being either one or a combination of different size(s), the latter for selectively providing tabs for different size natural nails.

11. The mounting tab of claims 8 or 9, further including:

either one of a strip or roll of double-sided, pressure-sensitive adhesive tape having a plurality of said mounting tabs formed thereon as partial cutouts, said tabs being either one or a combination of different size(s), the latter providing tabs for different sizes or shapes of human or natural nails, respectively.

12. The mounting tab of claims 8 or 9, further including:

a plurality of said tabs formed into a stack; and an appropriate adhesive coated along a strip of the length of said stack, for permitting selective removal of one tab of said stack without disturbing the placement of the other tabs in said stack.

13. A disposable and replaceable mounting tab and reinforcement for an artificial nail, for permitting reuse of said artificial nail until it wears out, and for facilitat-

ing the securing and removal of said artificial nail from a natural nail, comprising a double-sided, pressure-sensitive adhesive material dimensioned for covering a substantial portion of a natural nail, one side of said tab being secured to the surface of the natural nail, the other

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side of said tab being secured to a portion of the under-surface of an artificial nail, said tab thereby providing both a mounting and reinforcement means for said artificial nail.

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[54] PRESSURE SENSITIVE SEAL

[75] Inventor: Richard A. Krizere, Highland Park, Ill.

[73] Assignee: Professional Tape Company, Inc., Burr Ridge, Ill.

[21] Appl. No.: 25,282

[22] Filed: Mar. 29, 1979

[51] Int. Cl.³ B32B 7/06; B32B 7/12

[52] U.S. Cl. 428/41; 428/43; 428/121; 428/40; 229/62; 150/7

[58] Field of Search 428/40, 41, 121; 150/7; 229/62

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Primary Examiner—George F. Lesmes

Assistant Examiner—Alexander S. Thomas

Attorney, Agent, or Firm—Kinzer, Plyer, Dorn & McEachran

[57]

ABSTRACT

A pressure sensitive seal member for providing a complete adhesive-to-adhesive seal for the open end of a pouch includes a strip of face stock having a pressure sensitive adhesive on one face. There are two removable backing strips covering the adhesive and they are in edge contact along a generally longitudinal line. The face stock has a generally longitudinal fold perforation which is offset from the line of edge contact and is covered by one of the backing strips. When the seal member is applied, first one of the backing strips is removed with the fold perforation remaining covered. One side of the pouch open end is applied to the exposed adhesive surface. Subsequently, the other backing strip is removed exposing the fold perforation. The strip is folded and that portion of the adhesive covered surface on the opposite side of the fold and formerly covered by the backing strip is applied to the remaining side of the pouch. The face stock is adhesively secured to opposite sides of the pouch and there is adhesive-to-adhesive contact between portions of the face stock directly adjacent the pouch opening.

2 Claims, 4 Drawing Figures

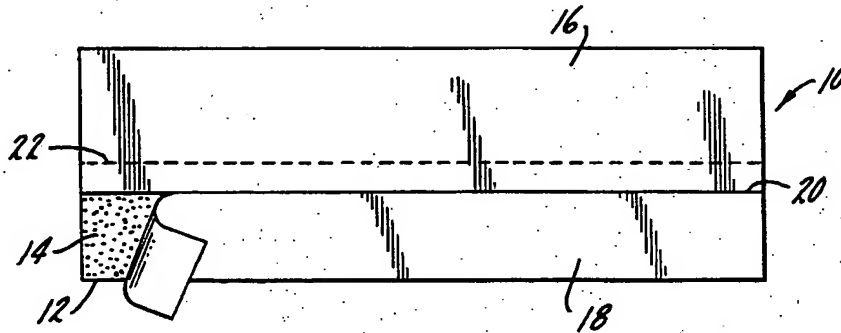


fig. 1.

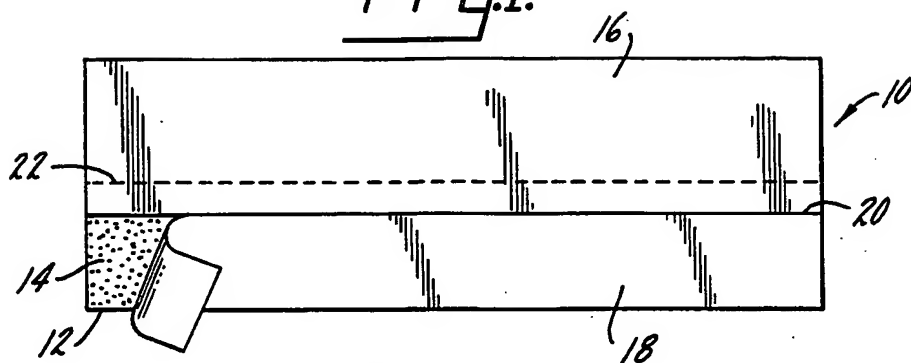


fig. 2.

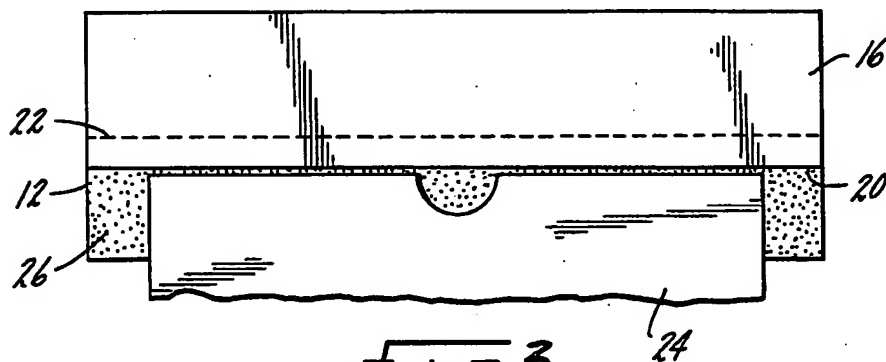


fig. 3.

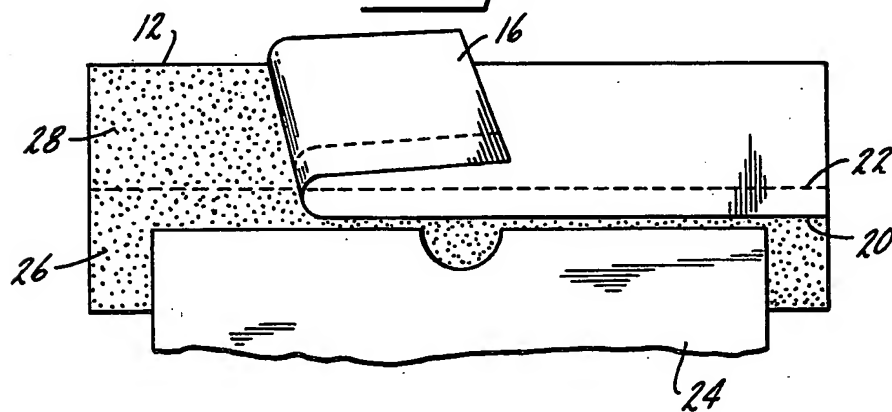
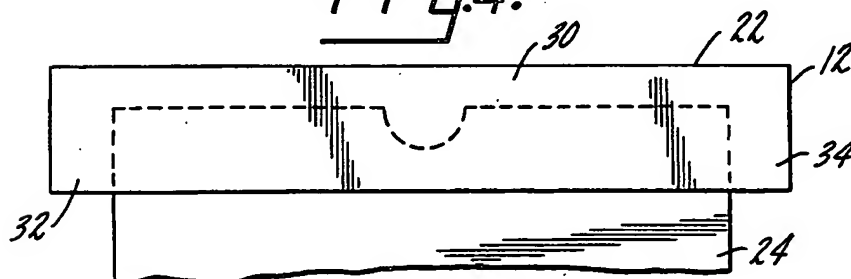


fig. 4.



PRESSURE SENSITIVE SEAL

SUMMARY OF THE INVENTION

The present invention relates to adhesive seal members and particularly such seal members which are used to close the open end of sterilized pouches.

One purpose of the invention is a seal member of the type described which is in strip form and has face stock covered by a pressure sensitive adhesive, which adhesive is covered by a pair of removable backing sheets or liners. The liners are in edge contact along a line which is offset from the fold perforation of the face stock.

Another purpose is a seal member of the type described which provides adhesive-to-adhesive integrity completely around the open end of the pouch to be sealed.

Another purpose is a pressure sensitive seal member of the type described which not only provides adhesive-to-adhesive integrity along the open end of the pouch, but also along its sides.

Another purpose is a simply constructed reliably operable pressure sensitive seal of the type described.

Other purposes will appear in the ensuing specification, drawings and claims.

BRIEF DESCRIPTION OF THE DRAWINGS

The invention is illustrated diagrammatically in the following drawings wherein:

FIG. 1 is a plan view of the pressure sensitive seal member,

FIG. 2 is a similar plan view showing one of the backing strips removed and the seal member applied to the open end of the pouch,

FIG. 3 is a similar plan view showing removal of the other backing strip, and

FIG. 4 is a plan view of the seal member completely applied to the open end of the pouch.

DESCRIPTION OF THE PREFERRED EMBODIMENT

The present invention relates to pressure sensitive seal members as particularly used in sealing the open end of sterilized pouches. The invention, however, has wider application. The seal member is provided in strip form, which strips may be individually cut prior to sale, or may be sold in a roll with tear-off perforations for various strip lengths or the seal member may be sold in a non-perforated roll so that the user merely cuts off the desired length of strip. Regardless of the marketing form, the invention is specifically directed to the makeup of the seal member itself.

It is essential in sealing sterilized pouches, for example those customarily used in hospital operating rooms or similar areas, that the seal be complete; that is, there be no possibility of contamination reaching the interior of the pouch after the pouch has been sterilized. To meet this requirement it is necessary that there be adhesive-to-adhesive contact around the open end of the pouch. With such contact, it is insured that no contamination will reach the pouch interior.

In addition, the seal must be easily and quickly applied. Otherwise, there is a tendency to not provide the necessary complete seal described above.

In FIG. 1 a seal member is indicated generally at 10 and includes a lower layer, commonly designated by the trade as the "face stock" and indicated at 12. Face stock 12 may have one side or face 14 covered by a pressure

sensitive adhesive which may be one of a number of products commonly used for this purpose and readily available on the market. Adhesive face 14 is covered by two liners or backing strips indicated at 16 and 18. Backing strips 16 and 18 are in edge contact along a line 20 which runs generally longitudinal of member 10.

Face stock 12 has a fold perforation 22 which is generally centrally located. The exact location of the fold perforation is not important, but what is significant is that the fold perforation 22 be spaced from parting line 20 of the backing strips. Thus, one of the backing strips may be removed and the fold perforation will not be exposed or uncovered.

In the application of the described seal member to a pouch, for example a pouch which may be used to contain a sterilized instrument, the first step is to peel off backing strip 18, as illustrated in FIG. 1. Once this has been done, then one side of the open end of a pouch 24 is applied to exposed area 26 formerly covered by backing strip 18, as in FIG. 2. Note that the end of the pouch is spaced from the fold perforation and that the side of the pouch applied to area 26 is in complete contact with adhesive.

The next step is to remove the other backing strip or backing strip 16, as illustrated in FIG. 3. When this is done, not only is the remaining area 28 of the face stock exposed, but the fold perforation is also exposed. The face stock is then folded along fold perforation 22 and that portion of the adhesive surface 28, on the side of the fold perforation away from the open end of the pouch, is then applied to the opposite side of the pouch. Thus, each side of the pouch adjacent the open end is in complete contact with an adhesive surface.

In addition, and of more significance, is the fact that when the face stock is folded upon itself there is adhesive-to-adhesive contact in the area 30 of FIG. 4. Because the fold perforation is offset from parting line 20 of the liners or backing strips when the face stock is folded upon itself there will be adhesive-to-adhesive contact between opposite portions of the face stock directly adjacent the open end of the pouch. In addition to the adhesive-to-adhesive integrity along the top of the open end of the pouch, areas 32 and 34 at opposite sides of the open end of the pouch will also have adhesive-to-adhesive integrity. This is because customarily the seal strip will be slightly longer than the open end of the pouch.

Because pouches of the type customarily sealed in the manner described and used for medical purposes will be of various sizes, the seal members may be marketed in different lengths or they may be marketed in the above-described rolls. What is important, however, is that the seal member have the fold-parting line relationship described above so that when the first backing strip is removed, the fold perforation is not exposed. In this way, when the second backing strip is removed, and the face stock is folded upon itself, there will necessarily be adhesive-to-adhesive integrity across the top of the open end of the pouch.

Whereas the preferred form of the invention has been shown and described herein, it should be realized that there may be many modifications, substitutions and alterations thereto.

The embodiments of the invention in which an exclusive property or privilege is claimed are defined as follows:

1. A pressure sensitive seal member for providing a complete adhesive-to-adhesive seal for the open end of a pouch including a strip of face stock having a pressure sensitive adhesive covering one face thereof, removable backing strips covering said adhesive face and being in edge contact along a generally longitudinal line, said face stock having a generally longitudinal fold perforation which is offset from the generally longitudinal edge contact line, said fold perforation being covered by one of said backing strips,

when said seal member is applied, first the other of said backing strips is removed so that said fold perforation remains covered, one side of the pouch open end is applied to the exposed adhesive face, subsequently, the other backing strip is removed, exposing the fold perforation, the face stock is then

folded at the fold perforation and that portion of the formerly covered adhesive face on the opposite side of the fold perforation is applied to the other side of the pouch open end whereby the open ends of the pouch each have an adhesive seal with the face stock and directly adjacent and along the pouch open end there is adhesive-to-adhesive contact between folded areas of the face stock, said strip having a length slightly greater than the open end of the pouch whereby there is also adhesive-to-adhesive contact between folded portions of the face stock at opposite sides of the pouch open end.

2. The pressure sensitive seal of claim 1 further characterized in that said fold perforation is generally centrally located on said strip.

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US005168831A

United States Patent [19]**Ittershagen et al.**[11] **Patent Number:** **5,168,831**[45] **Date of Patent:** **Dec. 8, 1992**[54] **TACKY-SURFACE ANIMAL REPELLER**

2167282 5/1986 United Kingdom 43/114

[76] **Inventors:** **Stephen J. Ittershagen; Daniel C. Ittershagen**, both of 6767 W. Butler, No. 133, Glendale, Ariz. 85301*Primary Examiner*—Gene Mancene
Assistant Examiner—Thomas Price
Attorney, Agent, or Firm—Antonio R. Durando; Harry M. Weiss[21] **Appl. No.:** **854,869**[22] **Filed:** **Mar. 20, 1992**[51] **Int. Cl.⁵** **A01K 15/00**[52] **U.S. Cl.** **119/29**[58] **Field of Search** 119/29; 52/101; 43/114,
43/115, 136[56] **References Cited****U.S. PATENT DOCUMENTS**

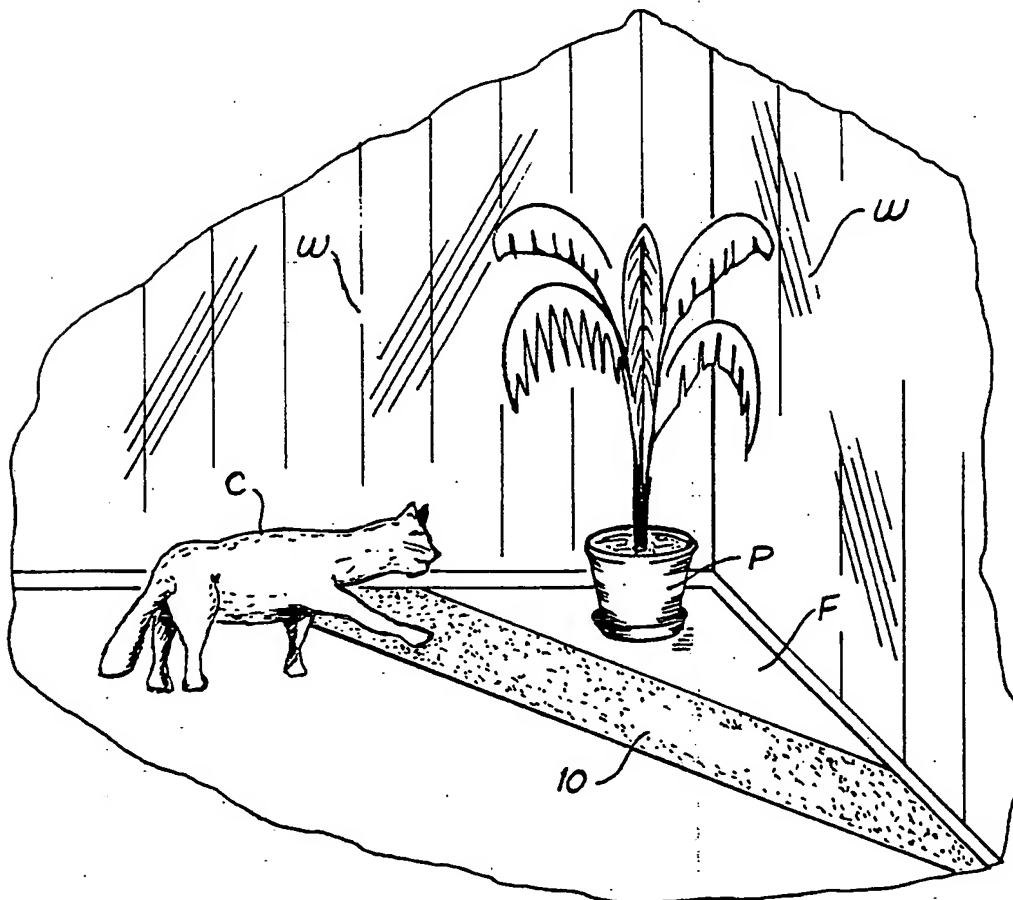
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[57] **ABSTRACT**

A sheet of flexible transparent material that is coated on both sides with non-permanent adhesives. The coating on one side is designed to adhere to typical coverings, such as tile and carpet, and yet be easily removable at will. The coating on the other side is preferably stronger, designed to stick to the paws of an animal stepping over it and require a forceful and unpleasant effort for the animal to free itself from its grip. After repeated encounters with the device, the animal is trained to stay away from it and from the location associated with it. The sheet of adhesive material can be cut to the desired shape to conform to the particular needs of the area or object selected for protection.

9 Claims, 1 Drawing Sheet

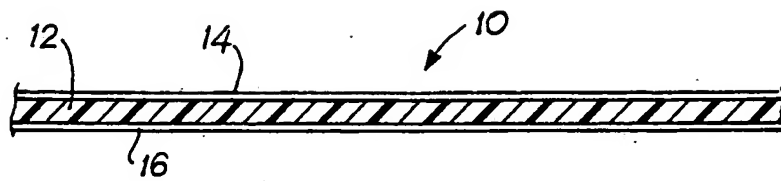


FIG. 1

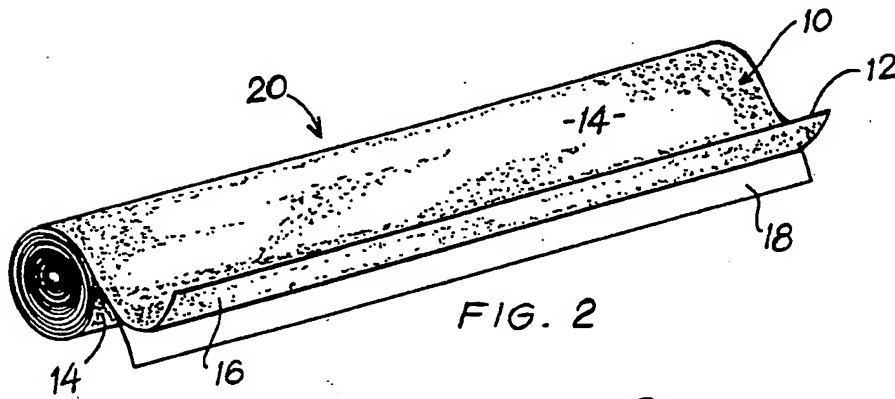


FIG. 2

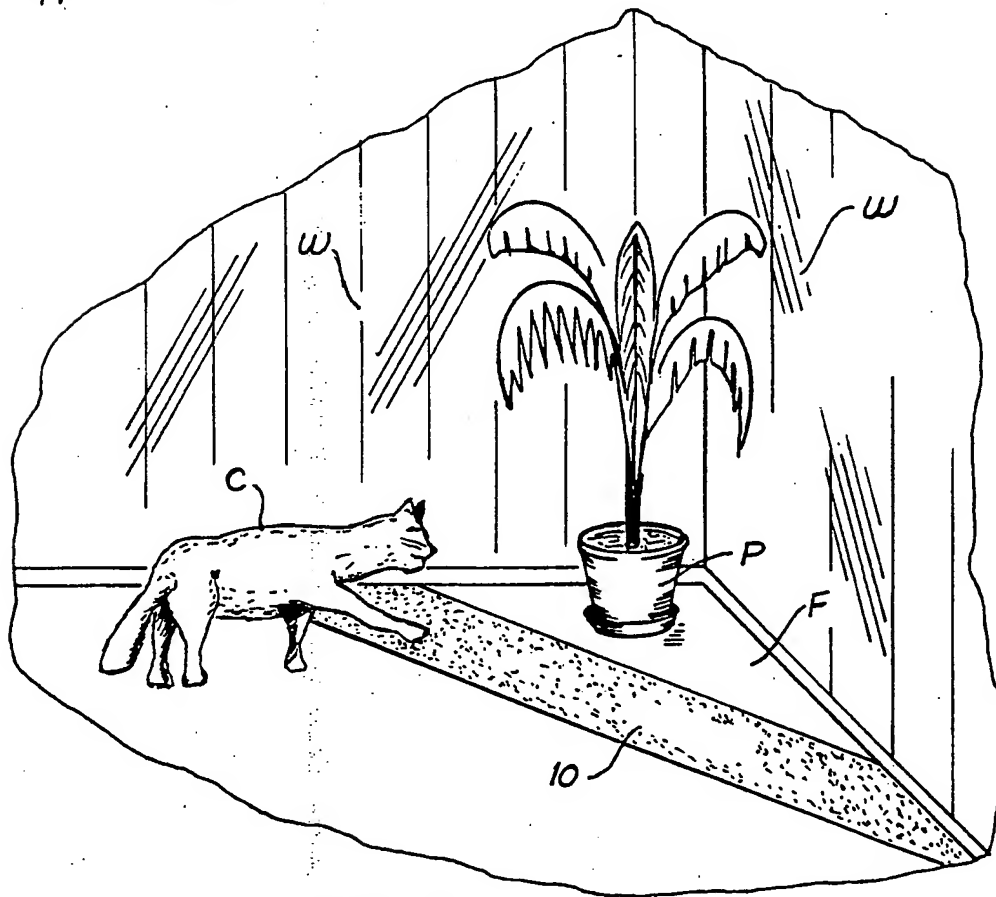


FIG. 3

TACKY-SURFACE ANIMAL REPELLER

BACKGROUND OF THE INVENTION

1. Field of the Invention

This invention is related to the general field of animal repellant devices. In particular, the invention provides a method and apparatus for keeping dogs, cats, and other domestic animals outside of a given area where their presence is not desired.

2. Description of the Prior Art

A common problem experienced by pet owners is a simple way to keep their animals away from certain areas, specially in a home or business environment. Some animals, such as dogs and cats, tend to cause damage to fixtures and furniture by scraping, scratching, and eating plants to satisfy their grooming and playing needs. The owners' efforts in training a pet not to enter certain areas of the house or building are usually marked by limited success; and the forceful reclusion of the animal to a specific space, such as a locked room or pen, often results in severe damage to surround articles.

Thus, people normally either allow their pets to roam freely or restrict them by means of chains or similar restraining devices.

This invention is directed at providing a simple means for training a domestic ground animal, such as a dog or a cat, to stay away from certain delineated areas without resorting to such drastic restraining apparatus. The invention is based on the principle that animals find it uncomfortable to have extraneous material stick to their paws and will avoid stepping over anything that they know might become attached to them.

A prior art search revealed some patents that describe the use of adhesive materials and of electrical charge to trap or effect the behavior of insects and other animals. For example, U.S. Pat. No. 3,816,956 to Sekula (1974) illustrates an adhesive tape to catch insects. U.S. Pat. No. 4,800,671 to Olson (1989) discloses an elongated insect trap formed in a recessed area of a strip of flexible material wrapped around the trunk of a tree. Finally, in U.S. Pat. No. 4,949,216 (1990), Djukastein shows an electrified mat that gives a repelling shock to an animal stepping over it.

None of the referenced patents teaches a device that can be used for training a cared-for, pet animal to stay away from predetermined areas or objects without the direct use of physical restraints. Therefore, this invention provides such an apparatus, both as a deterrent to encroachment and as a training tool.

BRIEF SUMMARY OF THE INVENTION

One objective of this invention is the development of simple animal repellant apparatus that works by having an adhesive surface that sticks to the paws of the animal stepping on it, thus giving it an uncomfortable feeling and providing negative feedback for training purposes.

Another goal of the invention is a device that can be placed on the floor around an area or an object desired to be kept off-limits to pet animals.

Another objective of the invention is apparatus that can be tailored to the particular geometry of the area or object chosen for protection.

A further goal is that the apparatus be inconspicuous to the animal, so that its effects continue after a period of training even though the apparatus is no longer used.

Still another objective of the invention is an apparatus that is unobtrusive and does not interfere with the normal use of the premises while the animal is being trained.

A final objective of this invention is the realization of the above mentioned goals in an economical and commercially viable manner. This is done by utilizing components and methods of manufacture that are either already available in the open market or can be developed at competitive prices.

According to these and other objectives, the preferred embodiment of the present invention consists of a sheet of transparent material coated on both sides with non-permanent adhesives. The coating on one side is designed to adhere to typical floor coverings, such as tile and carpet, and yet be easily removable at will. The coating on the other side is preferably stronger, designed to stick to the paws of an animal stepping on it and require a forceful and unpleasant effort for the animal to free itself from its grip. After repeated encounters with the device, the animal is trained to stay away from it and from the location associated with it. The sheet of adhesive material can be cut to the desired shape to conform to the particular needs of the area or object selected for protection.

Various other purposes and advantages of the invention will become clear from its description in the specification that follows and from the novel features particularly pointed out in the appended claims. Therefore, to the accomplishment of the objectives described above, this invention consists of the features hereinafter illustrated in the drawings, fully described in the detailed description of the preferred embodiment and particularly pointed out in the claims. However, such drawings and description disclose but one of the various ways in which the invention may be practiced.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is a cross-sectional view of a representative portion of the sheet material of the invention.

FIG. 2 is a perspective partial view of the preferred embodiment of the invention in roll form.

FIG. 3 is a perspective view illustrating the use of the invention in a typical household setting.

DETAILED DESCRIPTION OF THE INVENTION

The thrust of this invention lies in the recognition that any restraint in the freedom of movement of an animal's legs and feet is a source of great discomfort and irritation that the animal will go to great lengths to avoid. This is particularly true of cats, who are known for their abhorrence of anything affecting their freedom of movement. Therefore, this feature is exploited to create a simple apparatus that can be used to train a pet by negative reinforcement to associate that discomfort with a specific location desired to be kept off-limits. Thus, the apparatus is used not only to achieve immediate deterrent results, but also to condition the animal to avoid future discomfort by staying away from the prohibited area. By manufacturing the apparatus with transparent, almost invisible, material, the animal associates the discomfort more with the place than with the apparatus itself, so that it continues to avoid the area even when the invention is no longer in use.

Referring to the drawings, wherein like parts are identified with like numerals and symbols throughout the specification, FIG. 1 illustrates the way the sheet

material 10 of the invention is constructed. Seen in cross-sectional view, the invention consists of a continuous sheet 12 of preferably flexible material covered on both sides with layers 14 and 16 of adhesive substances. The sheet 12 is also preferably transparent in order to permit its inconspicuous use over color floors or on fixtures and furniture; flexible plastic material such as a vinyl plastic is ideal as a substrate because of its ability to conform to any surface without the need to use permanently pre-shaped rigid sheets. The layers of adhesive 14 and 16 consist of transparent sticky glue of the type normally referred to as pressure sensitive, such as is found on removable labels and decals. These adhesives are characterized by having a tacky feel at the touch that becomes more sticky when pressure is applied to them; they can then be peeled off and reused without leaving a residue on the surface to which they adhered. As a result, these adhesives can be handled easily and provide an ideal material to implement the concept of this invention.

In the preferred embodiment, the top layer 14 consists of stronger adhesive than the bottom layer 16. Because its effectiveness is measured by the degree to which the layer will stick to the paws of an intruding pet, which cover a very limited area of contact, the top layer 14 must be sufficiently strong to adhere to them when the pet steps on it. On the other hand, the bottom layer 16 presses against the entire area of contact with the underlying supporting surface, and thus requires less adhesive strength for adhesion and stability. It is found that the pressure sensitive adhesive sold by Catalina Pressure Sensitive Company of Sun Valley, Calif., as Product No. AWB322 is suitable for the requirements of the bottom layer 16, while the product sold by Catalina Plastic and Coating Corporation of Calabasas, Calif., as Part No. P2067 is suitable for the top layer 14. These layers are formed by coating the sheet 12 either by rolling or spraying the adhesives over its opposite surfaces. A layer of non-sticky material may also be adhered to one side of the sheet material 10 as a protective backing.

According to the best mode of practicing the invention, the coated sheet material 10 is manufactured in a roll 20 for ease of storage and transportation. As in the case of carpets and other large-surface flexible material, the use of rolls makes it possible to have wide surfaces available for custom fitting the geometry of the area to be protected. An intermediate layer of non-sticky backing material 18 can be incorporated into the roll to avoid bonding between the adhesive surfaces. Given the pressure-sensitive nature of the layers of adhesive coating the top and bottom of the flexible sheet 12, the two layers are then easily separated by peeling off the intermediate backing material shown at the outside fold of the roll, in much the same way that regular double-sided tape is peeled off its roll. Thus, in operation, the double-sided adhesive material of the invention is peeled off the roll 20 and cut to conform to the area for which it is intended. The material is then laid down with its bottom layer 16 facing the supporting surface, to which it will stick to form a forbidden area of intrusion for the target animal. If the materials constituting the sheet 12 and the adhesive layers 14 and 16 are transparent, the apparatus of the invention will blend into the background of its surroundings and be almost invisible to an observer. Thus, when the animal first steps on it accidentally, it will cause the intended discomfort and reaction, which the animal will associate not only with

the sticky surface but also with the specific location where it is placed. Soon the animal will avoid that location and it is found that the behavior continues even after the repelling apparatus is removed. Therefore, the invention is effective both for the immediate result of forcing the animal to stay away from a given area and for long-term training to achieve the same result even without its use.

FIG. 3 is an illustration of how the sheet material 10 of the invention might be used to keep a cat C away from a plant P placed on the floor F in a corner of a room between two walls W. The material 10 is shown as not transparent in order to better illustrate its placement on the floor. The sheet material is cut to the right size to cover an area going from wall to wall, corresponding to the boundary of the prohibited area and wide enough that the cat would not be likely to accidentally miss it in approaching the plant. For example, a width of approximately 12 inches is sufficient to deter average size house cats. The backing 18 is peeled off, and the material is then placed down firmly with the adhesive bottom layer 16 facing the floor downward, so that it adheres in place with the adhesive top layer 14 facing up, so that it is exposed to the cat. As the cat steps on it, the top adhesive layer 14 sticks to his paws, causing him great irritation that forces him away.

Various changes in the details, steps and materials that have been described may be made by those skilled in the art within the principles and scope of the invention herein illustrated and defined in the appended claims. Therefore, while the present invention has been shown and described herein in what is believed to be the most practical and preferred embodiments, it is recognized that departures can be made therefrom within the scope of the invention, which is therefore not to be limited to the details disclosed herein but is to be accorded the full scope of the claims so as to embrace any and all equivalent apparatus and methods.

What I claim is:

1. A method for repelling and training a ground animal to stay away from a selected area, comprising the following steps:

- (1) providing a sheet material with a first layer of pressure sensitive adhesive covering the top surface and a second layer of pressure sensitive adhesive covering the bottom surface thereof, said sheet material further having a non-sticky backing material adhered to said second layer of pressure sensitive adhesive;
 - (2) cutting said sheet material to conform to the shape of the boundary of the selected area and peeling off said non-sticky backing material; and
 - (3) attaching the sheet material to a supporting surface at the boundary of the selected area with said second layer facing down and adhering to the supporting surface, and with said first layer facing up, so as to cause irritation and discomfort to an animal stepping on it.
2. The method described in claim 1, wherein said sheet material is flexible.
3. The method described in claim 1, wherein said sheet material is transparent.
4. The method described in claim 1, wherein said sheet material is flexible and transparent.
5. The method described in claim 1, wherein said sheet material is made with vinyl plastic.
6. The method described in claim 5, wherein said vinyl plastic is flexible and transparent.

7. The method described in claim 1, wherein said first layer of pressure sensitive adhesive covering the top surface of said sheet material is stronger than said second layer of pressure sensitive adhesive covering the bottom surface of said sheet material.

8. The method described in claim 7, wherein said

sheet material consists of flexible and transparent vinyl plastic.

9. The method described in claim 1, wherein said sheet material is made available in a roll.

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RELATED PROCEEDINGS APPENDIX

None.